

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION

3 UNITED STATES OF AMERICA) Docket No. A 12-CR-210 SS
4 vs.)
5 JOSE TREVINO-MORALES (3))
6 FRANCISCO ANTONIO)
7 COLORADO-CESSA (6))
8 FERNANDO SOLIS-GARCIA (7))
9 EUSEVIO MALDONADO-HUITRON (11))
10 JESUS MALDONADO-HUITRON (18)) April 24, 2013

9 TRANSCRIPT OF TRIAL ON THE MERITS
10 BEFORE THE HONORABLE SAM SPARKS
11 Volume 8 of 15

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25 Proceedings reported by computerized stenography, transcript
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08:28:26 1 MR. GARDNER: Good morning, your Honor.

08:28:28 2 I've got two items before the jury comes in.

08:28:30 3 THE COURT: All right.

08:28:32 4 MR. GARDNER: Your Honor, the first item is with
08:28:34 5 respect to the individual who testified the other day, Hector
08:28:38 6 Moreno. We did some followup on the immigration file out of the
08:28:43 7 Eastern District of Texas and as well as any proffer letters.
08:28:49 8 So, again, we received confirmation from the Eastern District of
08:28:51 9 Texas, AUSA Ernest Gonzalez, there's no written proffer letters
08:28:56 10 or agreement. There was also none out of the Western District,
08:28:59 11 your Honor.

08:29:00 12 With regards to the immigration, the Department of
08:29:03 13 Homeland Security reviewed Hector Moreno's file, it states -- and
08:29:09 14 I'm reading from an e-mail -- that Moreno had received a benefit
08:29:11 15 of \$2,000 from DHS, Department of Homeland Security, in order to
08:29:17 16 facilitate his effort to gain employment, authorization cards for
08:29:21 17 himself and his family. And so, we would disclose that under
08:29:26 18 Giglio, your Honor, as a benefit given to him and make sure that
08:29:31 19 the Court and the defense counsel are aware of that.

08:29:34 20 With respect to number of people in his family, your
08:29:36 21 Honor, I know he had obviously his wife and children, but he also
08:29:41 22 brought over a number of his brothers and their families. So how
08:29:45 23 that \$2,000 was spread out, I'm not aware of that.

08:30:01 24 MR. DEGEURIN: May I be heard on that?

08:30:12 25 Your Honor, we would request the documentary backup of

08:30:17 1 those payments, those things we just heard about today, payments
08:30:22 2 to him, the assurances from Homeland Security, to review them.

08:30:35 3 MR. GARDNER: Your Honor, I think it's irrelevant at
08:30:37 4 this point.

08:30:37 5 THE COURT: I think so, too. He's just making a
08:30:39 6 record.

08:30:39 7 MR. GARDNER: I know.

08:30:40 8 THE COURT: It's not relevant, it's not going to do
08:30:42 9 anything, but he's got the right to make the record. So get the
08:30:46 10 papers if you can get them.

08:30:48 11 MR. GARDNER: Yes, sir.

08:30:48 12 THE COURT: If not, he's still available.

08:30:51 13 MR. GARDNER: Yes, sir.

08:30:51 14 THE COURT: He's available to the defendants to put on
08:30:53 15 the stand and prove up the cross-examination. I'll not release
08:30:57 16 him until then. You can ask him whatever he's got, how many
08:31:02 17 brothers and sisters. You cannot ask him the location of these
08:31:05 18 people. Other than that, he's fully able to answer any questions
08:31:11 19 that you have. Or you can enter into a stipulation. If you
08:31:18 20 could get the immigration documents, get them. But he obviously
08:31:23 21 has the right to stay here at the present time. He testified he
08:31:28 22 doesn't know how long that is existing or that's correct. But he
08:31:35 23 didn't mention or he wasn't asked if he'd gotten any money. So I
08:31:39 24 don't know about that.

08:31:40 25 MR. DEGEURIN: Your Honor, that's only for the record,

08:31:42 1 I feel that it's my obligation under my ethical efforts --

08:31:47 2 THE COURT: I'm not criticizing you. It's another
08:31:49 3 thing, a bit to do about nothing, but it's something you're
08:31:55 4 entitled to. So we'll try to get it for you.

08:31:58 5 MR. DEGEURIN: Yeah. And it's not only something may
08:32:02 6 come up to be a bit of nothing, but it's something we have an
08:32:06 7 obligation as a lawyer under our oath to review records like that
08:32:10 8 to see. Imagine someone looking later at our work we saw, we
08:32:18 9 don't need to look at those records. Of course we need to look
08:32:20 10 at them. We may not use them, probably won't use them. Most
08:32:23 11 likely we won't. But we certainly --

08:32:25 12 THE COURT: You may or may not. Moreno's testimony
08:32:30 13 wasn't nearly as damaging as other witnesses. Okay. Now, let's
08:32:33 14 go back to where we are.

08:32:36 15 What's the second point?

08:32:40 16 MR. GARDNER: Your Honor, with respect to the
08:32:42 17 government's next witness, Mr. Arian Jaff, I would ask the Court
08:32:47 18 to recall Mr. DeGeurin's opening statement in which he said, Mr.
08:32:52 19 Colorado had contracts from Pemex, a nationally owned company,
08:32:55 20 which takes bids. There is no local influence. The bidding
08:32:58 21 process is open in public. There is a board of directors, a lot
08:33:02 22 of protections built in. Contracts that he's won that he did
08:33:07 23 bids on, quote, legitimate contracts. And then, yesterday, Mr.
08:33:10 24 Sanchez inquired of Mr. Barrera on Pemex that he gained
08:33:14 25 contracts, and the question was, did Mr. Colorado know how to

08:33:18 1 gain and manage these Pemex contracts? Mr. Jaff is prepared to
08:33:22 2 testify that he was present at a breakfast in which Mr. Colorado
08:33:27 3 and a Pemex director discussed a \$5 million bribe for Pemex
08:33:34 4 contracts. We believe that Mr. DeGeurin and Mr. Sanchez have
08:33:38 5 opened the door to this type of testimony.

08:33:48 6 MR. DEGEURIN: Well, number one, I'm not aware of that
08:33:52 7 discussing a bribe with a Pemex official, but I'd like to see
08:33:59 8 that. Is that --

08:34:02 9 MR. GARDNER: There's no -- are you talking in opening
08:34:06 10 statement or are you talking --

08:34:08 11 MR. DEGEURIN: No, no. I want to know what Jaff said.

08:34:24 12 THE COURT: Well, let's find out. Tell the jury to
08:34:28 13 relax.

08:34:31 14 Also, I'm advised that Mr. Colorado-Cessa is ill. So I
08:34:36 15 want the marshals to facilitate any time Mr. Colorado needs to be
08:34:45 16 excused to go to the restroom, which we have right beyond the
08:34:48 17 door here, he has the right to mention it, and if y'all will take
08:34:52 18 him, and then, he can return. Hopefully he won't need it, but if
08:34:59 19 he does need it, provide that courtesy.

08:35:09 20 MR. GARDNER: Mr. Jaff, just take a seat up there at
08:35:11 21 the witness chair, please.

08:35:12 22 Your Honor, I believe this witness was sworn yesterday.

08:35:15 23 THE COURT: What you believe is correct. He has been
08:35:17 24 sworn. You understand that you're under oath, sir?

08:35:26 25 THE WITNESS: I'm what?

08:35:26 1 THE COURT: You're under oath?

08:35:27 2 THE WITNESS: Yes. I do.

08:35:28 3 THE COURT: All right.

08:35:30 4 ARIAN JAFF, called by the Government, duly sworn.

08:35:30 5 DIRECT EXAMINATION (Resumed)

08:35:30 6 BY MR. GARDNER:

08:35:31 7 Q. Mr. Jaff, you and I had a discussion about a breakfast. I
08:35:34 8 believe it's a breakfast or conference you attended in which the
08:35:37 9 Defendant Colorado and a director from Pemex were sitting at the
08:35:43 10 table and a bribe -- the term "bribe" was discussed. Do you
08:35:47 11 recall that incident?

08:35:49 12 A. I do recall.

08:35:51 13 Q. Okay. Could you please explain the facts and circumstances
08:35:54 14 surrounding that to the Court, please?

08:35:59 15 THE COURT: First of all, when did it occur?

08:36:04 16 THE WITNESS: In 2012, in February.

08:36:09 17 Q. (BY MR. GARDNER) And where was this conversation held?

08:36:15 18 A. At his -- at the office of the subdirector.

08:36:19 19 Q. The office of the subdirector for Pemex?

08:36:21 20 A. Yes.

08:36:22 21 Q. And what was the discussion?

08:36:29 22 A. It was about money that needed to be transferred to the
08:36:37 23 United States.

08:36:37 24 Q. And was there discussion involving you on how to transfer
08:36:40 25 that money to the United States?

08:36:42 1 A. My advice was asked and I recommended that a lawyer be -- do
08:36:49 2 this, but I don't know what the funds were for exactly.

08:36:52 3 Q. And was it your understanding that this -- well, let me ask
08:36:57 4 you this. How much money was discussed?

08:37:00 5 A. \$5 million.

08:37:02 6 Q. And was it your understanding this \$5 million was part of a
08:37:05 7 legitimate Pemex contract between Pemex and Defendant Colorado?

08:37:10 8 A. I was not aware what the proceeds of the money were for.
08:37:14 9 That was my understanding that it was for something that was not
08:37:19 10 for -- was for something that -- for a contract. But I don't
08:37:26 11 know what it was for exactly. I was never told and I never
08:37:29 12 asked.

08:37:30 13 Q. And did the subdirector of Pemex, did he make any statements
08:37:35 14 indicating that he wished to conceal that money?

08:37:39 15 A. Yes.

08:37:40 16 Q. Okay. What was that, sir?

08:37:42 17 A. That he wanted it to -- he couldn't have it in -- he
08:37:46 18 couldn't have the money in Mexico.

08:37:48 19 MR. GARDNER: Your Honor, I tender the witness as the
08:37:51 20 tender of the government.

08:38:04 21 MR. DEGEURIN: First of all, your Honor, the date was
08:38:08 22 significant, February the 12th, that this happened. That's --

08:38:12 23 THE COURT: Do you have any questions?

08:38:14 24 MR. DEGEURIN: Yes. I do.

08:38:15 25

CROSS-EXAMINATION

08:38:15

1

08:38:16

2

BY MR. DEGEURIN:

08:38:16

3

Q. Who was the person who was the subdirector of Pemex? Who

08:38:27

4

was that?

08:38:27

5

A. Hinojosa.

08:38:29

6

Q. And not what you were thinking, but what was said by Mr.

08:38:39

7

Cessa, Mr. Colorado and Mr. Hinojosa?

08:38:43

8

A. That he was a friend and that he needed to transfer \$5

08:38:49

9

million to his account in some way.

08:38:53

10

Q. All right.

08:38:54

11

THE COURT: Needed to transfer whose account?

08:38:57

12

THE WITNESS: From Mr. Colorado to Mr. Hinojosa.

08:39:02

13

Q. (BY MR. DEGEURIN) Oh, so Mr. Hinojosa was asking?

08:39:04

14

A. No.

08:39:05

15

Q. Transfer?

08:39:05

16

A. Colorado.

08:39:14

17

Q. And what preceded the conversation or the statements before

08:39:21

18

-- tell me exactly what you think you heard him say, Mr.

08:39:28

19

Colorado.

08:39:32

20

A. That he needed to give some of -- this \$5 million to Mr.

08:39:37

21

Hinojosa.

08:39:40

22

Q. What \$5 million? Is he talking to you, or is he talking to

08:39:47

23

Mr. Hinojosa?

08:39:48

24

A. He told me.

08:39:48

25

Q. In Mr. Hinojosa's office?

08:39:50 1 A. Yes. And Mr. Hinojosa was present, also.

08:39:53 2 Q. And asking you how to give the \$5 million for a contract in

08:39:58 3 the United States?

08:39:59 4 A. It was -- the contract was never mentioned.

08:40:04 5 Q. So I thought I heard you say something about in the United

08:40:08 6 States.

08:40:09 7 A. That the money -- they wanted the money in the United

08:40:12 8 States. Transferred to the United States.

08:40:15 9 Q. And was there any discussion about a contract?

08:40:18 10 A. No.

08:40:23 11 Q. Don't know what the money was for?

08:40:25 12 A. No.

08:40:29 13 Q. Do you know what kind of business Mr. Hinojosa was in other

08:40:32 14 than when he was the subdirector?

08:40:35 15 A. Besides being a subdirector, I have no knowledge of what

08:40:38 16 else he did.

08:40:39 17 Q. Where was his office?

08:41:09 18 A. In the Pemex building.

08:41:12 19 Q. Where? Which city or state?

08:41:18 20 A. Ciudad del Carmen.

08:41:23 21 Q. I'm sorry?

08:41:23 22 A. Ciudad del Carmen.

08:41:30 23 Q. So the discussion, what you recall is something about money

08:41:36 24 in -- to Mr. Hinojosa, anything in return for that?

08:41:44 25 A. What do you mean?

08:41:45 1 Q. You said, if I give you this, you'll do something for me?

08:41:49 2 A. No. I told him I would introduce him to the lawyer who can
08:41:54 3 maybe help them -- a business lawyer.

08:41:59 4 Q. And there were -- strike that. Your Honor, I'm prepared to
08:42:11 5 argue.

08:42:12 6 THE COURT: Any more questions of Mr. Jaff?

08:42:17 7 MR. GARDNER: Just one, your Honor.

08:42:20 8 RE-DIRECT EXAMINATION

08:42:20 9 BY MR. GARDNER:

08:42:22 10 Q. Mr. Jaff, it appears to be that the money that was
08:42:28 11 discussed, was it for a future obligation or a past obligation?

08:42:37 12 A. I want to believe it was for a past, but I did not ask
08:42:41 13 specifics.

08:42:41 14 Q. And no one discussed whether it was for something already
08:42:45 15 performed or something to be performed?

08:42:46 16 A. I did not ask specifics.

08:42:47 17 Q. That's all I have.

08:42:50 18 THE COURT: Any further questions?

08:42:52 19 MR. DEGEURIN: No, sir.

08:42:53 20 THE COURT: And this was -- this conversation was to
08:42:58 21 transfer \$5 million from Mr. Colorado's account into the United
08:43:09 22 States into Mr. Hinojosa's account.

08:43:13 23 THE WITNESS: What I understand is Mr. Hinojosa did not
08:43:15 24 have an account in the United States yet.

08:43:20 25 THE COURT: Well, did the conversation exist that

08:43:27 1 Hinojosa was to get the money once it got to the United States?

08:43:34 2 THE WITNESS: That was the intention -- that was the
08:43:36 3 intention.

08:43:41 4 THE COURT: Okay. Sir. If you'll step out of the
08:43:43 5 courtroom. It's your objection.

08:44:06 6 MR. DEGEURIN: I'm not sure how he's going to testify
08:44:09 7 about what the intention was, since he has -- there were no words
08:44:13 8 to that effect, that would be his speculation. And I appreciate
08:44:18 9 the question you asked him. I should have asked that same
08:44:21 10 question.

08:44:22 11 Secondly, your Honor, we asked for 404(b) disclosures
08:44:30 12 before -- well before discovery was cut off, well before trial.
08:44:37 13 There was no 404(b) notification of anything. And before opening
08:44:43 14 statements, before all that, we were confident that if there had
08:44:48 15 been any 404(b), he would have given it to us. We not only
08:44:52 16 talked him about it, we also e-mailed request for 404.

08:44:55 17 And so, this is what happens with 404(b) sometimes --
08:45:01 18 and at least we have those notices -- is because you become
08:45:05 19 surprised at some witness saying, oh, I remember a conversation I
08:45:09 20 had, I don't remember exactly what their thoughts were, but
08:45:11 21 here's what I heard. Here's what I thought it was.

08:45:15 22 So it's going to -- if that comes in, it's going to be
08:45:20 23 404(b), and then, it may be, I guess, rebuttal to my opening
08:45:28 24 statement, I guess?

08:45:29 25 THE COURT: Well, there's no question about it wasn't

08:45:31 1 404(b) evidence. It probably wasn't evidence at all before your
08:45:35 2 opening statement and the cross-examination of the last witness
08:45:39 3 to show how wealthy Mr. Colorado is, and how much money he's
08:45:50 4 made, and that he's a wonderful financier and businessman. I
08:45:58 5 mean, there wouldn't be any point in trying to get that type of
08:46:02 6 evidence in. And I suspect with the list of witnesses that you
08:46:12 7 voir dired the jury on, you're going to attempt to establish his
08:46:18 8 reputation as a very successful businessman who made all this
08:46:26 9 money and, therefore, never did do any of the things that the
08:46:30 10 government alleges. That's what makes it a close question.

08:46:36 11 MR. DEGEURIN: It is a close question and it's going to
08:46:38 12 require -- my head is spinning right now -- but a statement like
08:46:43 13 this where he doesn't really know what it's about. Just that his
08:46:47 14 understanding was --

08:46:49 15 THE COURT: I don't know what it's going to require,
08:46:51 16 but here's the problem.

08:46:52 17 MR. DEGEURIN: Well, not require.

08:46:54 18 THE COURT: I'm going to give you a little recess and
08:46:56 19 you sit with your other couple of lawyers, and y'all decide what
08:46:59 20 you want to put in the record. Here's the problem. This is a
08:47:02 21 money-laundering case.

08:47:03 22 MR. DEGEURIN: Yes.

08:47:04 23 THE COURT: And here, I have evidence that is
08:47:11 24 consistent with money laundering. Moving \$5 million from one
08:47:15 25 person to the United States to another. Now, is that 404(b) and

08:47:24 1 if it is, is it more prejudicial than probative? And your
08:47:33 2 opening statement that pretty well puts a crown on Mr. Colorado's
08:47:43 3 head as if you're going to show that these allegations are
08:47:49 4 preposterous. And that's been the cross-examination to date of
08:47:55 5 anybody that knows Mr. Colorado.

08:47:59 6 I cut out the first stuff about the ranch because it
08:48:04 7 didn't pertain to anything, and it was more prejudicial than
08:48:06 8 probative because there wasn't any evidence as to whether the
08:48:11 9 Zetas were there on the property, or had been on the property, or
08:48:15 10 there was any association. But this particular case and the
08:48:20 11 money-laundering case bothers me. And I'll give you ten minutes
08:48:23 12 to think about it. Pardon me. Particularly in light of the
08:48:38 13 cross-examination yesterday, where millions of dollars went into
08:48:44 14 his United States account, brought out by co-counsel.

08:51:27 15 (Recess.)

09:00:30 16 THE COURT: All right. Counsel, anything further on
09:00:42 17 this record?

09:00:42 18 MR. GARDNER: Nothing from the government, your Honor.

09:00:52 19 THE COURT: Invite Mr. DeGeurin into the courtroom. At
09:01:41 20 this time, I will sustain the objection and not allow the
09:01:44 21 testimony for the following reasons, but I will keep it under
09:01:48 22 advisement in case it comes up. One, it's speculation as to what
09:01:55 23 the money was for. It's inconsistent with the opening statement.
09:02:03 24 It's inconsistent with -- and it is consistent with money
09:02:09 25 laundering, although the sources of the money laundering and the

09:02:12 1 conspiracy was bribery to win a race, drug money, but didn't
09:02:22 2 cover bribery of commercial law, or whatever you want to put it.
09:02:31 3 It's material because it is a laundry case. And it's
09:02:39 4 material because the evidence in the case before the jury is that
09:02:50 5 in the period of time, including 2012, money was being put into
09:02:56 6 the account and a loan was being made, without explanations, but
09:03:06 7 it is speculative as to what went on. So while good evidence is
09:03:11 8 prejudicial, at this point in time, it appears to me the
09:03:15 9 prejudice outweighs the probative value that the jury can have.
09:03:20 10 So I'll exclude it unless there's some more that comes in that
09:03:27 11 can explain the transaction to the jury.

09:03:32 12 All right. Bring the jury in.

09:03:34 13 (Jury present.)

09:05:38 14 THE COURT: Members of the jury, where have y'all been?

09:05:46 15 I can assure you that we've been working, trying to
09:05:49 16 save your time. That's the message from the government that you
09:05:56 17 could rest assured.

09:05:57 18 Since you were here last afternoon until you have been
09:06:03 19 seated again, has anybody attempted to talk to you about this
09:06:06 20 case?

09:06:06 21 JURORS: No.

09:06:07 22 THE COURT: Have you talked to anybody about the case?

09:06:10 23 JURORS: No.

09:06:10 24 THE COURT: And has any one of you learned anything
09:06:13 25 about the case, outside the presence of each other in this

09:06:16 1 courtroom?

09:06:17 2 JURORS: No.

09:06:17 3 THE COURT: All right. Thank you. Show negative
09:06:20 4 responses to all questions by all injures.

09:06:22 5 MR. GARDNER: Thank you, your Honor. Your Honor, the
09:06:24 6 government calls Arian Jaff.

09:06:42 7 THE COURT: Members of the jury, Mr. Jaff has been
09:06:44 8 sworn. If you'll have a seat there, please, sir.

09:06:48 9 MR. GARDNER: Thank you, your Honor.

09:06:49 10 RE-DIRECT EXAMINATION (Resumed)

09:06:49 11 BY MR. GARDNER:

09:06:51 12 Q. Good morning, Mr. Jaff.

09:06:52 13 A. Good morning.

09:06:52 14 Q. Would you please introduce yourself to the jury? Tell them
09:06:54 15 how old you are, where you're from, and what you do for a living.

09:06:56 16 A. My name is Arian Jaff. It's A-R-I-A-N, J-A-F-F. From San
09:07:05 17 Diego, California. And I've been in the business of doing hard
09:07:08 18 money loans and currency exchange.

09:07:12 19 Q. And how old are you, sir?

09:07:13 20 A. I am 28 years old.

09:07:15 21 Q. And can you explain to the ladies and gentlemen of the jury
09:07:17 22 what a hard money loan is?

09:07:21 23 A. Yes. It's giving out loans with basically no collateral.

09:07:29 24 It's given to people -- in our business, we give it to people we
09:07:37 25 know or based on a government contract.

09:07:44 1 Q. And you say you had two businesses. The other one was a
09:07:46 2 currency exchange?

09:07:47 3 A. Correct.

09:07:48 4 Q. Could you explain to the ladies and gentlemen how that
09:07:50 5 works?

09:07:51 6 A. We buy currency in Mexico and we export it -- we buy U.S.
09:07:57 7 dollars in Mexico and we export it to the U.S.

09:08:00 8 Q. And how do you make your profit off that?

09:08:02 9 A. There is a spread between the -- what we buy the U.S.
09:08:09 10 dollars for and what the number of pesos we give in return.

09:08:15 11 Q. So, for example, if I -- the spread is 10 percent at the
09:08:19 12 bank and 15 percent at the window of the exchange. Is that how
09:08:22 13 you make your money between those two percentage points?

09:08:26 14 A. In essence, yes.

09:08:27 15 Q. And so, when you get the U.S. dollars back on this side of
09:08:33 16 the border, what do you do with it?

09:08:36 17 A. They're deposited into a financial institution, and from
09:08:42 18 there, they're transferred over to Mexico to be paid out.

09:08:45 19 Q. And when did you start this currency exchange? How old were
09:08:48 20 you when you started that?

09:08:50 21 A. June 2010. So I was approximately 25 years old.

09:08:56 22 Q. All right. And when you first started the business, how did
09:08:59 23 you get the cash into U.S. banks?

09:09:05 24 A. At first, it was money service business accounts were being
09:09:10 25 opened, which is a type of special account that needs to be open.

09:09:14 1 And then, there was -- it began -- the business evolved to
09:09:24 2 selling the cash.

09:09:25 3 Q. And when you say evolved, do you now have a money remitter?
09:09:30 4 A. My parents took over the business and they do different --
09:09:36 5 they sell the cash to a money transmitter. Correct.

09:09:40 6 Q. Transmitter. I'm sorry. And where is that money
09:09:43 7 transmitter?

09:09:43 8 A. It's in Boston.

09:09:44 9 Q. So how does the cash get from you in San Diego to Boston?
09:09:47 10 A. It's flown through Brink's.

09:09:49 11 Q. Brink's Security?
09:09:50 12 A. Correct.

09:09:51 13 Q. All right. And so, then, it's then deposited into the
09:09:54 14 business account, once it goes through the transmitter?

09:09:56 15 A. Correct.

09:09:56 16 Q. Is that transmitter bonded?
09:09:58 17 A. It's licensed and bonded, correct, in 42 states.

09:10:05 18 Q. Assuming you pay them a fee, correct?
09:10:07 19 A. Yes, we do.

09:10:08 20 Q. Now, are you also licensed, your business with the federal
09:10:11 21 government?

09:10:11 22 A. My parent's business is licensed there -- is registered
09:10:16 23 through FinCEN and licensed through Vice in San Diego.

09:10:21 24 Q. And when you say FinCEN, that's the U.S. Treasury
09:10:25 25 Department?

09:10:25 1 A. It is the U.S. Treasury Department. Correct.

09:10:27 2 Q. What's the Vice?

09:10:28 3 A. Vice is San Diego Police Department, the Vice department.

09:10:32 4 Q. Now, you said earlier that you normally make these hard
09:10:38 5 loans, these currency loans on no collateral to people you know.
09:10:42 6 How do you go about discovering a client's background, potential
09:10:48 7 client's background?

09:10:49 8 A. Mostly, it's referrals and then, we do background checks.

09:10:57 9 We use a company called Roll Check that does all the -- to make
09:11:04 10 sure that they're not on any type of lists and it's a very close
09:11:11 11 -- it's usually friends of friends or it's mostly referrals.

09:11:15 12 Q. And when you say lists, what do you mean by list?

09:11:18 13 A. Make sure they're not on any suspicious list or OFAC list.

09:11:26 14 Q. OFAC is another treasury department?

09:11:27 15 A. Correct.

09:11:28 16 Q. Do you know the Defendant Colorado-Cessa?

09:11:32 17 A. I do know him. Yes.

09:11:33 18 Q. Do you see him in the courtroom here today? The individual
09:11:36 19 standing up?

09:11:37 20 A. Yes. I consider him a good friend.

09:11:39 21 Q. And when did you first meet the Defendant Colorado?

09:11:44 22 A. I met him September 2009 in Villahermosa. I was attending a
09:11:55 23 Pemex convention and I was looking for new clients.

09:11:59 24 Q. And when you say Hermosia, I'm sorry, is that what you said
09:12:04 25 in Mexico?

09:12:05 1 A. Villahermosa.

09:12:06 2 Q. That's in Mexico, correct?

09:12:07 3 A. Correct.

09:12:07 4 Q. So how were you introduced to the Defendant Colorado?

09:12:10 5 A. Through another friend of mine, his name is Gustavo Mason.

09:12:15 6 We met at a cafe. We were able to get a meeting with Francisco

09:12:23 7 Colorado.

09:12:24 8 Q. And why did you seek a meeting with Mr. Colorado?

09:12:29 9 A. Because he was the most -- he was one of the most important

09:12:33 10 Pemex contractors. He was the real deal, basically the person

09:12:43 11 you wanted to meet if you wanted to do anything in Pemex.

09:12:46 12 Q. And did you feel he had a number of contacts that you could

09:12:51 13 hopefully develop in the future? Is that why you sought him out?

09:12:54 14 A. Unlimited.

09:12:55 15 Q. And so, what was the substance of that first meeting, that

09:12:58 16 first conversation?

09:12:59 17 A. It was just a meet-and-greet. He was extremely, extremely,

09:13:05 18 extremely nice, and he invited us to his annual golf tournament,

09:13:16 19 which we were very, very happy to attend.

09:13:20 20 Q. And if you will, can you just generally describe to the jury

09:13:25 21 how your relationship with the Defendant Colorado evolved? What

09:13:30 22 contacts he had, what discussions he had, would you contact him

09:13:34 23 on the phone, sort of the background information.

09:13:37 24 A. He became a very good friend, like a mentor. We talked

09:13:45 25 frequently, maybe once or twice, once every month or every two

09:13:52 1 months, and it was a relationship that slowly developed.

09:13:59 2 Q. And did you have the opportunity to visit his operation?

09:14:02 3 A. I did. I visited his -- I visited Tuxpan a number of times,
09:14:11 4 and I was able to see his whole operation.

09:14:17 5 Q. And did you ever visit his ranch?

09:14:19 6 A. I did visit Flor de Maria, correct.

09:14:23 7 Q. When you say Flor de Maria, that's the name of the ranch?

09:14:26 8 A. That correct.

09:14:27 9 Q. Can you physically describe for the jury where the ranch
09:14:29 10 headquarters is situated in relation to the main road?

09:14:35 11 A. It's right off the main road deal. It's right on the main
09:14:42 12 road.

09:14:43 13 Q. One-hundred, 100 yards off the highway?

09:14:49 14 A. If that.

09:14:50 15 Q. And what are some of the surrounding outbuildings around the
09:14:54 16 headquarters?

09:14:55 17 A. It's all open road. It's not a very developed -- it's not a
09:15:00 18 very developed town. It's a lot of agriculture.

09:15:04 19 Q. Does he have any stables or sort of farm-type buildings?

09:15:08 20 A. He does. He had award-winning bulls and lots of horses on
09:15:14 21 his ranch.

09:15:16 22 Q. And can you describe for the jury the inside of the office?

09:15:19 23 A. Inside of his office was a one-story building, a little bit
09:15:32 24 rustic where it's the -- if you would go in, it would be open and
09:15:38 25 there was a skeleton of a horse that -- of a prized horse that

09:15:46 1 had been -- I'm not sure. It was preserved. And then, to his
09:15:50 2 right was his secretary and then, his -- and then, his office.

09:16:00 3 Q. And what kind of pictures did he have on the wall in his
09:16:02 4 office?

09:16:04 5 A. He had pictures of his family, and he also had pictures of
09:16:13 6 politicians or the main director of Pemex.

09:16:19 7 Q. And so, how often would you say -- let's just stick with
09:16:24 8 2009 for right now. How often would you say you either visited
09:16:27 9 or spoke with the Defendant Colorado-Cessa in 2009?

09:16:31 10 A. In 2009, I had that initial meeting September, and then, in
09:16:36 11 December, I was able to -- I had the privilege of going to his
09:16:42 12 golf tournament.

09:16:45 13 Q. I'm showing you what's been previously marked, but not
09:16:53 14 admitted, as Government's Exhibit 305. But for my tabs, did you
09:16:58 15 go through that the other day?

09:17:00 16 A. I did go through this. Correct.

09:17:02 17 Q. Okay. Are those your business records from your business?

09:17:04 18 A. These are e-mails and contracts. Correct.

09:17:09 19 Q. Okay. Loan contracts?

09:17:10 20 A. Correct.

09:17:11 21 Q. And your business, does it have a name or at the time?

09:17:16 22 A. Quick Loans. It's a sole proprietorship.

09:17:19 23 Q. Your Honor, I offer Government's Exhibit 305. That is the
09:17:22 24 only business record not agreed to by defense counsel. I
09:17:30 25 apologize, your Honor. It's 57, Bates 10.

09:17:34 1 MR. DEGEURIN: No objection.

09:17:34 2 THE COURT: All right. 305 is received.

09:17:37 3 Q. (BY MR. GARDNER) Mr. Jaff, I want to talk to you a little
09:17:41 4 bit about your business transactions with Mr. Colorado. Was
09:17:45 5 there some point he approached you requesting a loan?

09:17:49 6 A. There was.

09:17:50 7 Q. And I want to talk -- let's just generally talk about how
09:17:55 8 many occasions was that?

09:17:57 9 A. How many times did we loan him money or how many times did
09:18:01 10 he ask -- request for money?

09:18:02 11 Q. Let's start how many times did he request for money?

09:18:07 12 A. Three times.

09:18:08 13 Q. And how many times did you loan him money?

09:18:10 14 A. All three times.

09:18:11 15 Q. All three times. So I want to talk about the first loan in
09:18:20 16 May. This is all in Spanish, correct?

09:18:24 17 A. Correct. It was done by a law firm called Conde Abogados,
09:18:34 18 and it was documented by a public notary in Mexico.

09:18:39 19 Q. So would you agree with me that this is a loan to the
09:18:43 20 Defendant Colorado?

09:18:45 21 A. It was done to ADT. Francisco Colorado was the legal
09:18:49 22 representative.

09:18:53 23 Q. And would you agree with me that the amount paid to Mr.
09:18:57 24 Colorado was \$922,500?

09:19:01 25 A. That's what was agreed on, but what was initially given to

09:19:06 1 him was less.

09:19:07 2 Q. And we'll get to that in a second.

09:19:09 3 So this is the term of the loan agreement, correct?

09:19:11 4 A. Correct.

09:19:12 5 Q. And the repayment of that was \$1 million, correct?

09:19:16 6 A. Correct.

09:19:16 7 Q. And that's in U.S. dollars?

09:19:18 8 A. U.S. dollars.

09:19:19 9 Q. All right. What's the percentage rate on that?

09:19:25 10 A. It was -- the first loan was for 14 percent annually. And
09:19:30 11 the second loan was for 15 percent annually.

09:19:34 12 THE COURT: Do we have a date on these?

09:19:35 13 MR. GARDNER: Yes, sir, your Honor. This one was May
09:19:38 14 2010.

09:19:46 15 Q. (BY MR. GARDNER) All right. So you say this particular
09:19:49 16 loan, the first one I showed in May 2010 states \$922,500?

09:19:55 17 A. That was the second loan.

09:20:02 18 Q. I'm sorry. Let me just refer to this one again. And just
09:20:05 19 for the record, your Honor, it's Bates stamp 57108. I'm talking
09:20:18 20 about this amount right here?

09:20:19 21 A. That is the second loan. Correct. That was for the amount
09:20:22 22 of 15 percent interest.

09:20:23 23 Q. Okay. So let's talk about the first loan. You said that a
09:20:33 24 loan agreement wasn't accurate in terms of the amount you
09:20:38 25 actually gave him.

09:20:39 1 A. On the second loan. Correct.

09:20:40 2 Q. Second loan. So let's talk about the first loan. How much

09:20:43 3 did you give him for the first loan?

09:20:45 4 A. 500,000.

09:20:46 5 Q. Why did Mr. Colorado, this Pemex contractor, ask you for a

09:20:54 6 hard currency loan?

09:20:57 7 A. He had told us that he was in need of cash. He had

09:21:05 8 liquidity issues and that he needed a loan for 500,000. This was

09:21:09 9 not something that's uncommon in the Pemex -- within the Pemex

09:21:17 10 contractors.

09:21:18 11 Q. Were you aware that he had a UBS account?

09:21:24 12 A. I was aware he had a -- not at the moment, but I was aware

09:21:30 13 later that there was -- he had a UBS account that he called his

09:21:34 14 retirement fund, which was untouchable.

09:21:37 15 Q. You don't know the details of that, whether he could loan

09:21:40 16 from that?

09:21:40 17 A. I never asked.

09:21:41 18 Q. He never explained the percentage rates he was getting from

09:21:44 19 that account?

09:21:45 20 A. I never asked.

09:21:47 21 Q. And so, you said he was having a liquidity problem, the

09:21:52 22 \$500,000 loan.

09:21:53 23 A. He had -- there was a request for more money but we were --

09:21:57 24 we only gave 500,000.

09:21:58 25 Q. How much money did he request?

09:22:01 1 A. I do not recall at the moment what the exact amount was.

09:22:04 2 Q. And what was the reason why you only gave him 500,000?

09:22:12 3 A. At the moment, that's what we were comfortable in lending.

09:22:16 4 Q. And does the \$500,000 loan documents, was that -- did that

09:22:21 5 actually reflect the terms of the loan?

09:22:24 6 A. It did, but it was paid off early. So instead of being at

09:22:28 7 14 percent, he only paid seven percent interest.

09:22:31 8 Q. Seven percent.

09:22:33 9 A. He ended up paying -- because he only kept it for six

09:22:36 10 months.

09:22:37 11 Q. And did he pay it off in full?

09:22:39 12 A. He did.

09:22:39 13 Q. Now, would you agree with me that your loan documents say

09:22:44 14 that should be paid to your Bank of America accounts?

09:22:46 15 A. Correct.

09:22:47 16 Q. Was it, in fact, paid to your Bank of America accounts?

09:22:49 17 A. The first one was paid to my Bank of America account.

09:22:51 18 Q. And that's a \$500,000?

09:22:53 19 A. Correct.

09:22:54 20 Q. So let's go to the second loan. How much was that for?

09:22:58 21 A. The amount was for a million dollars, the loan.

09:23:01 22 Q. That's the one I showed you, correct?

09:23:04 23 A. Correct.

09:23:04 24 Q. So maybe I got confused. But can you tell the Court when

09:23:09 25 the first loan was, the \$500,000 loan?

09:23:16 1 A. If I can look at the records.

09:23:20 2 Q. Go ahead. Take your time.

09:23:52 3 A. February 24th, 2011.

09:23:56 4 Q. 2000 what? I'm sorry.

09:23:59 5 A. '11.

09:24:00 6 Q. And that's which loan?

09:24:17 7 A. I think for 500,000.

09:24:18 8 Q. Okay. Take your time.

09:24:29 9 A. For \$500,000.

09:24:30 10 Q. Okay.

09:24:33 11 THE COURT: I'm confused.

09:24:34 12 MR. GARDNER: Yeah. So am I.

09:24:36 13 Q. (BY MR. GARDNER) All right. So let's talk about the loans
09:24:37 14 again. The first loan was when? You have the documents in front
09:24:43 15 of you. Take your time. Tell me the date and the amount of the
09:24:48 16 first loan.

09:24:51 17 A. I'm sorry. I made a mistake. It was in February 2010 and
09:24:57 18 due in February of 2011.

09:24:59 19 Q. All right. So loan one was February 2010 for how much?

09:25:03 20 A. 500,000.

09:25:04 21 Q. And loan two was February 2011.

09:25:07 22 A. Loan two is May 2010.

09:25:13 23 Q. I just want to do it one more time so I make sure we're
09:25:17 24 together. So February 2010 is the first loan.

09:25:20 25 A. Correct.

09:25:20 1 Q. \$500,000. May 2010 is the second loan.

09:25:28 2 A. Correct.

09:25:28 3 Q. And that's for?

09:25:30 4 A. \$1 million.

09:25:31 5 Q. One million. And then, there's a third loan, correct?

09:25:35 6 A. There was a third loan, which was a number -- it was a

09:25:41 7 number of payments. Correct.

09:25:43 8 Q. We'll get to that. So generally just give me the month and

09:25:47 9 the year of that third loan.

09:25:49 10 A. November 2011.

09:25:52 11 Q. And the overall amount of that loan?

09:25:54 12 A. \$1,782,248.16.

09:26:01 13 Q. Okay.

09:26:02 14 THE COURT: You want to do that one more time.

09:26:04 15 THE WITNESS: \$1,782,248.16.

09:26:11 16 THE COURT: Okay.

09:26:13 17 Q. (BY MR. GARDNER) Thank you. Just so I'm straight on the

09:26:23 18 payments and the repayments. So the February 2010 loan for

09:26:27 19 \$500,000, how was that money given to the Defendant Colorado?

09:26:33 20 A. It was wired from our account in Wells Fargo, wired to my

09:26:42 21 Bancomer account in Mexico, and from there it was wired to his

09:26:45 22 account. He required Mexican pesos, so I needed to transfer to

09:26:51 23 my Mexican account to be able to convert it.

09:26:54 24 Q. So it was converted from U.S. dollars to pesos?

09:26:56 25 A. Correct.

09:26:58 1 Q. And I know you've already said it, but tell me again, how
09:27:03 2 was that loan repaid?

09:27:04 3 A. It was paid into my Bank of America account.

09:27:07 4 Q. And, again, was that the loan that was paid early?

09:27:10 5 A. It was paid early. Correct.

09:27:13 6 Q. And what was -- just so I'm straight. What was the stated
09:27:19 7 interest rate on that February 2010 loan?

09:27:21 8 A. Fourteen percent.

09:27:22 9 Q. And I believe your testimony was because he repaid it early,
09:27:25 10 it ended up being only seven percent?

09:27:27 11 A. Correct.

09:27:28 12 Q. All right. So when did he repay that first loan? Let me
09:27:38 13 ask you this. Was it prior to the second loan?

09:27:40 14 A. No.

09:27:42 15 Q. So when he comes to you for the one million, that first loan
09:27:45 16 is still outstanding?

09:27:48 17 A. Correct.

09:27:48 18 Q. Can you explain to the jury the circumstances surrounding
09:27:53 19 why the Defendant Colorado asked you for the second loan of \$1
09:27:58 20 million?

09:27:58 21 A. Yes. My -- one of my friends who introduced me to Mr.
09:28:07 22 Colorado had told him he was also in the hard money loans and
09:28:14 23 ended up not delivering. It was all phony promises. So Mr.
09:28:24 24 Colorado was expecting to receive money from Mr. Gustavo Mason
09:28:32 25 and ended up not receiving and needed -- needed more money to

09:28:37 1 fulfill his obligations, too, for his contracts.

09:28:43 2 Q. Is it uncommon for Pemex contractors to have liquidity
09:28:48 3 problems?

09:28:49 4 A. It is because Pemex, even though it's a great, great
09:28:54 5 company, they're sometimes delayed in payments.

09:29:01 6 Q. Did the Defendant Colorado ever talk to you about his
09:29:04 7 company being suspended from Pemex contracts?

09:29:07 8 A. He did mention it and told me the suspension had been
09:29:12 9 lifted.

09:29:12 10 Q. And what timeframe was that?

09:29:15 11 A. It should have been in 2011. I do not have an exact date.

09:29:22 12 Q. And did he refer to just one suspension or two suspensions?

09:29:29 13 A. I cannot answer specifics.

09:29:35 14 Q. So we got the May loan for \$1 million. How much money did
09:29:39 15 you originally provide to the Defendant Colorado?

09:29:43 16 A. \$1.5 million.

09:29:45 17 Q. For the May 2010?

09:29:47 18 A. Oh, I'm sorry. Total. \$1 million for the May.

09:29:52 19 Q. And did you give him a million dollars?

09:29:53 20 A. I did not.

09:29:54 21 Q. Okay. But the loan was for a million dollars?

09:29:56 22 A. Correct.

09:29:56 23 Q. And so, how much money did you actually give him?

09:30:00 24 A. \$850,000-plus.

09:30:02 25 Q. And that's, again, in U.S. dollars?

09:30:03 1 A. Correct.

09:30:05 2 Q. Now, would you agree with me that the actual loan document
09:30:08 3 that I showed you on the screen states \$922,500?

09:30:13 4 A. Correct. When we met in person, the terms were changed.

09:30:22 5 And since there was a relationship -- a trust relationship with

09:30:25 6 Mr. Colorado, we just signed the document, but it was not -- we

09:30:33 7 didn't mention -- I didn't mention to the lawyers, which was my

09:30:35 8 fault.

09:30:36 9 Q. Okay. So the actual loan document doesn't truly reflect the
09:30:39 10 amount of the loan?

09:30:39 11 A. Correct.

09:30:40 12 Q. Okay. What was the repayment amount on the \$850,000?

09:30:45 13 A. A million dollars.

09:30:47 14 Q. So he owed you \$150,000 interest?

09:30:50 15 A. Fifteen percent.

09:30:52 16 Q. So at this point in May 2010, he owes you \$1.5 million?

09:31:04 17 A. Correct.

09:31:04 18 Q. We're going back to the 850 that you sent him, how was that
09:31:08 19 provided to the Defendant Colorado?

09:31:10 20 A. In the same way. It was transferred from our account at our
09:31:18 21 bank, transferred to our Bancomer account, and from Bancomer to
09:31:22 22 ADT's account.

09:31:23 23 Q. Again, was that from U.S. dollars to pesos?

09:31:24 24 A. Correct.

09:31:25 25 Q. And that's not uncommon, correct?

09:31:27 1 A. That is not uncommon. A Mexican company with Mexican pesos.

09:31:34 2 Q. So when did the Defendant Colorado repay you the \$1.5

09:31:38 3 million?

09:31:44 4 A. 500 was paid, if I'm not mistaken, in September. But if I

09:31:49 5 can take a look at the documents.

09:31:52 6 Q. Let me just show you one here real quick.

09:31:55 7 A. And the other one was paid in December.

09:31:57 8 Q. Okay. Bates 5718?

09:32:02 9 A. That was for second loan in December. Correct.

09:32:06 10 Q. So you get the loan in February, May, and he doesn't pay you

09:32:11 11 back until December of the same year?

09:32:13 12 A. Correct.

09:32:14 13 Q. And that check cleared, correct?

09:32:16 14 A. Yes.

09:32:20 15 Q. And that included the full 15 percent interest?

09:32:22 16 A. Correct.

09:32:26 17 Q. So describe to the jury your relationship with the Defendant

09:32:29 18 Colorado after the repayment of this loan in December of 2010.

09:32:36 19 A. It was just a friendly relationship after the payment. Our

09:32:45 20 bond became closer as true friends.

09:32:51 21 Q. And during your visits to the Flor de Maria, did you observe

09:32:58 22 any oil rigs?

09:33:00 23 A. I did. I was able to see -- it was not at Flor de Maria.

09:33:07 24 It was at his waste management company in the back, in the back

09:33:11 25 part, there was one of the oil rigs from Extreme was there.

09:33:15 1 Q. And did he ever mention how much those rigs cost him?

09:33:19 2 A. He did. The number at the moment, I don't remember. It was

09:33:26 3 five or 15 million.

09:33:27 4 Q. If I were to say 13 million per rig, would that be accurate?

09:33:33 5 A. Correct.

09:33:33 6 Q. Refresh your memory? And, again, was this 2010 or 2011 when

09:33:37 7 you saw those rigs?

09:33:38 8 A. 2011.

09:33:43 9 Q. I want you to do me a favor and describe what type of person

09:33:48 10 Defendant Colorado is to the jury. His lifestyle, if you will.

09:33:54 11 A. He was a very, very generous man. He was the town. If you

09:34:04 12 want to say everyone in town knew him. I was able to witness

09:34:09 13 firsthand he had mentally disabled employees working for him, and

09:34:16 14 I asked him why and he said that everyone deserves a job. So he

09:34:21 15 was always in his work, and with all the people he was around, he

09:34:30 16 would always be smiling and with a positive attitude going

09:34:36 17 forward.

09:34:37 18 Q. And with respect to when you visited him at Tuxpan or among

09:34:42 19 his associates, for lack of a better term, was there sort of a

09:34:47 20 hierarchy of who was the most important guy in the room?

09:34:50 21 A. Mr. Colorado was always the most important. He always knew

09:34:54 22 how to be in charge of the conversation.

09:35:01 23 Q. When you were visiting with the Defendant Colorado on these

09:35:05 24 financial arrangements and his financial wherewithal, would you

09:35:11 25 classify his knowledge as sophisticated or unsophisticated?

09:35:16 1 A. Can you rephrase the question, please?

09:35:18 2 Q. Sure. You've had many discussions with Mr. Colorado.

09:35:23 3 You've engaged in loans with him. You've discussed various

09:35:29 4 contacts and doing business in Mexico.

09:35:32 5 A. Uh-huh.

09:35:32 6 Q. Would you rate his business savvy as advanced and

09:35:38 7 knowledgeable or un-advanced and unknowledgeable?

09:35:40 8 A. I would consider him a great operational businessman, but in

09:35:46 9 terms of what we know in the U.S. as a corporate man, he was not

09:35:51 10 a corporate businessman.

09:36:02 11 Q. All right. So I want to turn your attention to the last

09:36:05 12 loan. When did that occur again?

09:36:10 13 A. In November of 2011.

09:36:11 14 Q. You said that was a \$1.7 million loan?

09:36:14 15 A. In total aggregate, correct.

09:36:18 16 Q. So what we're looking at here is Bates stamp 5772. This is

09:36:23 17 the promissory note for that loan?

09:36:26 18 A. Correct.

09:36:27 19 Q. Okay. And you've listed the installments here and these are

09:36:31 20 the installments you were to pay, correct?

09:36:34 21 A. Those are installments we paid. Correct. Again, these were

09:36:37 22 sent in Mexican pesos. That's why the amounts are a little bit

09:36:44 23 -- that's why the sent amount.

09:36:48 24 Q. So where they're reflected here is in U.S. dollars?

09:36:52 25 A. Correct.

09:36:52 1 Q. Now, I want to know the dates, November 1, November 3,
09:36:56 2 November 8, November 11, November 14 and November 15, correct?

09:37:01 3 A. That is correct.

09:37:03 4 Q. And these, again, are what?

09:37:06 5 A. Those were loans from our company to Mr. Colorado.

09:37:11 6 Q. So why so many installments over those dates?

09:37:17 7 A. Those were at his request and that's the term we had agreed
09:37:21 8 upon. We had agreed upon 15 to 20 million pesos, and with our
09:37:29 9 cash flow, that's what we could pay him.

09:37:32 10 Q. So tell me about -- or tell the jury, rather, about that
09:37:35 11 loan. How were you contacted and asked about that particular
09:37:38 12 loan?

09:37:38 13 A. I was contacted at 9:00 at night, San Diego time -- it was
09:37:46 14 about 11:00 Mr. Colorado's time -- and asked if I could lend him
09:37:53 15 -- that he was in a financial bind and if I could lend him money
09:37:58 16 right away.

09:38:00 17 Q. And did he have the same persona during that conversation as
09:38:03 18 he had had during your past dealings?

09:38:05 19 A. It was the first time he had called me so late. So I
09:38:12 20 consider that maybe it was something of urgent matter. It was a
09:38:16 21 little bit more desperate, but it was still Mr. Colorado who I
09:38:24 22 considered a friend that was calling a friend in need.

09:38:30 23 Q. And did you go visit him to arrange the --

09:38:33 24 A. I went to go visit him around November 15th or November
09:38:40 25 18th. November -- yes.

09:38:43 1 Q. Before the loan, I'm sorry?

09:38:45 2 A. No. I did not. I went to go visit him after the loan. I
09:38:48 3 was there prior to the loan, but we did not speak about the loan.

09:38:52 4 Q. And so, the loan occurs in November. What was the period
09:38:56 5 before that loan -- how long -- sorry.

09:39:04 6 When was the last time you saw him before this loan?

09:39:07 7 A. A few months before.

09:39:10 8 Q. Were you still in contact, though?

09:39:12 9 A. We were in constant contact.

09:39:14 10 Q. All right. So you arranged the agreement for this
09:39:18 11 particular loan, correct?

09:39:19 12 A. Correct.

09:39:20 13 Q. And is that all handled via Fed Ex or e-mail? How was the
09:39:27 14 loan negotiations conducted?

09:39:29 15 A. Through phone. Through Nextel.

09:39:33 16 Q. And did -- you said although he sounded desperate, the same
09:39:41 17 guy, what did he say he needed this money for?

09:39:44 18 A. I didn't ask. He said he had liquidity issues to keep --
09:39:47 19 just keep everything afloat.

09:39:50 20 Q. And did you arrange a percentage for the payback, the
09:39:53 21 interest rate?

09:39:54 22 A. He had told me that Pemex would pay him within a month, and
09:39:58 23 he would give me ten percent.

09:40:02 24 Q. And when was he supposed to pay that back?

09:40:04 25 A. In December.

09:40:06 1 Q. So there was a one-month loan?

09:40:07 2 A. Correct.

09:40:08 3 Q. At ten percent. I'd like to go to the next page that

09:40:22 4 says --

09:40:22 5 THE COURT: This is November of what year?

09:40:24 6 THE WITNESS: 2011.

09:40:25 7 THE COURT: Thank you.

09:40:26 8 Q. (BY MR. GARDNER) All right. This is 5771 on Bates. And I

09:40:36 9 marked as a demonstrative exhibit two pages, same one, 71, mark

09:40:44 10 it 417, your Honor, and 72.

09:40:55 11 MR. DEGEURIN: No objection.

09:40:58 12 THE COURT: Okay. What are the numbers?

09:41:00 13 MR. GARDNER: Two pages, your Honor, 417 is the

09:41:02 14 exhibit.

09:41:03 15 THE COURT: All right. 417's received.

09:41:05 16 Q. (BY MR. GARDNER) So what does this appear to be a

09:41:15 17 spreadsheet, Mr. Jaff? What does this represent?

09:41:16 18 A. This is the total amount that if you see the middle where it

09:41:20 19 says loan amount at the bottom, it gets the same amount of

09:41:27 20 \$1,782,248.

09:41:29 21 Q. This right here?

09:41:31 22 A. That is correct.

09:41:32 23 Q. These are the installments that you reflected in the

09:41:47 24 promissory note?

09:41:48 25 A. Correct.

09:41:49 1 Q. Okay. So November 1, November 3, November 8, November 11,
09:41:54 2 correct?

09:41:54 3 A. Correct.

09:41:56 4 Q. Again, these are all in pesos.

09:41:58 5 A. That is 5 million pesos at the conversion rate gives you the
09:42:03 6 amount of 371, 376.

09:42:08 7 Q. And when I go across so that's the total amount here that
09:42:12 8 you paid him -- I'm sorry, here that you paid him to date?

09:42:14 9 A. Correct. The bottom one. The 1,400.

09:42:22 10 Q. I'll get to that one in a second.

09:42:24 11 A. Okay.

09:42:25 12 Q. So the first four go from Santander. Is that your bank?

09:42:32 13 A. That is correct.

09:42:32 14 Q. And how was that money sent?

09:42:36 15 A. It is sent from our U.S. account to our Santander account,
09:42:42 16 converted to pesos, and transferred to his ADT account.

09:42:46 17 Q. So this November 14 payment, that comes from a Wells Fargo
09:42:52 18 account, correct?

09:42:53 19 A. Correct.

09:42:54 20 Q. And this one is for how much?

09:42:56 21 A. 300,000.

09:42:57 22 Q. Where does that money go, sir?

09:43:07 23 A. It goes to Heritage Place.

09:43:12 24 Q. I'm showing you page 53. Quick Loans, correct?

09:43:24 25 A. Correct.

09:43:25 1 Q. \$300,000?

09:43:26 2 A. Correct.

09:43:27 3 Q. On November 14 of 2011?

09:43:29 4 A. Correct.

09:43:30 5 Q. To Heritage Place?

09:43:32 6 A. Correct.

09:43:32 7 Q. Who gave you the instructions to send that money to Heritage

09:43:36 8 Place?

09:43:36 9 A. Mr. Colorado.

09:43:38 10 Q. Was that money sent under the name of ADT Petro Servicios?

09:43:42 11 A. It was not.

09:43:43 12 Q. What was it sent under?

09:43:45 13 A. Under my company because I sent the payment.

09:43:48 14 Q. Do you know what Heritage Place is?

09:43:50 15 A. At the moment, I have no idea.

09:43:51 16 Q. Have you since come to learn what Heritage Place is?

09:43:54 17 A. Unfortunately, I have.

09:43:55 18 Q. Is it a horse auction place?

09:43:57 19 A. Correct.

09:43:57 20 Q. Did Mr. Colorado seem desperate for money, explain to you

09:44:04 21 why he's sending \$300,000 to a horse auction place?

09:44:09 22 A. He told me he had the prior commitment and that he had

09:44:12 23 already bought this horse.

09:44:22 24 Q. Going back to Government's Exhibit 417. All right. So we

09:44:32 25 have this \$300,000 here. I've highlighted in yellow or 330,

09:44:37 1 rather. What's this blank here with the 370, next column?

09:44:45 2 A. He sent in a payment to us for \$370,000. We were at our

09:44:50 3 limit where we couldn't loan out more money. So he was able to

09:44:54 4 -- we were able to recall a payment for the first amount, the

09:44:58 5 very first loan and for 370,000.

09:45:03 6 Q. Now, did he ask you -- prior to you saying this, did he ask

09:45:06 7 you for the final installment of 430?

09:45:09 8 A. He did.

09:45:10 9 Q. So he asked you for the final installment and what's your

09:45:13 10 response?

09:45:14 11 A. I don't have the liquidity to give any more money. And so,

09:45:19 12 he was able to give me 370, and I was able to loan him a little

09:45:23 13 bit more money.

09:45:24 14 Q. So he gives you 370,000 on November 15th, correct?

09:45:32 15 A. Correct.

09:45:32 16 Q. And then, you loan him the remaining balance of 433,000 on

09:45:39 17 November 16th?

09:45:41 18 A. Correct.

09:45:41 19 Q. This \$433,000, where did that money go?

09:45:59 20 A. To Heritage Place, as well.

09:46:01 21 Q. As well?

09:46:03 22 A. Correct.

09:46:03 23 Q. Did Mr. Colorado ever explain to you why he couldn't wire

09:46:08 24 that \$370,000 he had himself?

09:46:12 25 A. No.

09:46:14 1 Q. Did you have any conversations with him about the \$370,000
09:46:21 2 and its source?

09:46:22 3 A. No. I believe it was from his company. That's all I --
09:46:28 4 that was to what I understood or believed.

09:46:31 5 Q. May I have one moment, your Honor?

09:46:42 6 Let me ask a couple of more questions, Mr. Jaff. Have
09:46:54 7 you ever had any conversations with the Defendant Colorado about
09:46:57 8 his company and how he started it?

09:47:02 9 A. He told me his company was -- he had told me he had worked
09:47:09 10 for 30 years in Pemex, but he started from scratch when he built
09:47:16 11 ADT.

09:47:18 12 Q. And when did he --

09:47:20 13 A. I believe ADT was formed in 2001.

09:47:23 14 Q. So he said he built that company up from scratch?

09:47:27 15 A. Correct.

09:47:27 16 Q. Did he ever discuss with you how ADT was capitalized with
09:47:31 17 the funding paid for that company?

09:47:32 18 A. I have never asked.

09:47:35 19 Q. Do you know an individual by the name of Francisco
09:47:38 20 Silva-Ramos?

09:47:39 21 A. Yes, I do.

09:47:40 22 Q. Do you know him by nickname?

09:47:41 23 A. "Paco."

09:47:42 24 Q. Do you know where he lives?

09:47:44 25 A. I believe he lives in Tuxpan.

09:47:47 1 Q. Do you know what his role is in ADT?

09:47:56 2 A. No.

09:47:58 3 Q. Was he present when you had meetings with Defendant

09:48:02 4 Colorado?

09:48:02 5 A. For short periods of time. Never -- it was always he would
09:48:07 6 come in to speak to Mr. Colorado or something. But he was always
09:48:13 7 very nice, said hello and -- but he never stuck around for a full
09:48:18 8 meeting.

09:48:19 9 Q. Do you know if he had a horse company in the United States?

09:48:22 10 A. Not to my knowledge.

09:48:26 11 Q. Now, I want to turn your attention back a little bit. I

09:48:29 12 forgot something on this loan. You said you didn't visit

09:48:32 13 Defendant Colorado before making this series of loans.

09:48:37 14 A. I had visited him but not -- the loan was not discussed.

09:48:41 15 Q. But you did visit him at some point later?

09:48:44 16 A. Yes.

09:48:44 17 Q. And when was that?

09:48:47 18 A. I visited him in -- after November, November 15 or 18.

09:48:53 19 Q. Can you describe his physical appearance to the jury at that
09:48:56 20 point?

09:48:56 21 A. Yes. He had a little bit of unshaven, 5:00 shadow. And he
09:49:06 22 had for the first time I had seen him with heavy security.

09:49:09 23 Q. That was the first time you saw him?

09:49:10 24 A. He had four or five bodyguards, which is not uncommon in
09:49:14 25 Mexico.

09:49:17 1 Q. And did you have a conversation with Mr. Colorado in 2012
09:49:25 2 about his living arrangements in Mexico, whether or not he wanted
09:49:31 3 to stay in Mexico?

09:49:32 4 A. Correct. In 2012, he was living in Houston. The few times
09:49:38 5 I spoke to him and he had mentioned that he had some issues in --
09:49:47 6 security issues in Mexico and at the moment, he was living in
09:49:54 7 Houston.

09:49:54 8 Q. And what part of 2012 was this?

09:50:00 9 A. March, April 2012.

09:50:02 10 Q. Did you ever have an occasion to meet Defendant
09:50:06 11 Colorado-Cessa in California at the Los Alamitos race track?

09:50:09 12 A. I did meet him at the Los Alamitos race track.

09:50:11 13 Q. Who was he with, do you recall?

09:50:13 14 A. He was with Carlos Nayan, a Dr. Luis Rojas, I believe.

09:50:32 15 Q. What was the date of that? Or how about a year? Just give
09:50:38 16 me a year.

09:50:39 17 A. 2011.

09:50:42 18 Q. That individual?

09:50:43 19 A. Mr. Nayan.

09:50:51 20 Q. Your Honor, I'll pass the witness.

09:50:57 21 MS. WILLIAMS: I don't have any questions.

09:51:35 22 THE COURT: All right. Let's go.

09:51:41 23 MR. DEGEURIN: Actually, I don't -- I don't have any
09:51:43 24 questions for him. Thank you, sir.

09:51:47 25 THE WITNESS: Thank you.

09:51:48 1 THE COURT: Mr. Womack.

09:51:49 2 MR. WOMACK: Your Honor, very, very briefly.

09:51:51 3 CROSS-EXAMINATION

09:51:51 4 BY MR. WOMACK:

09:51:52 5 Q. Good morning, Mr. Jaff.

09:51:53 6 A. Good morning.

09:51:53 7 Q. I'm Guy Womack. I'm from Houston. I have just a couple of
09:51:57 8 questions.

09:51:58 9 You told us that you met Francisco Silva-Ramos?

09:52:03 10 A. Correct.

09:52:04 11 Q. Okay. Did you see him in California when you went to Los
09:52:09 12 Alamitos?

09:52:09 13 A. No.

09:52:10 14 Q. Did Mr. Silva tell you or other people tell you that he
09:52:14 15 owned Bonanza Racing Stables, which operated race horses and
09:52:20 16 stables in Los Alamitos, California, in Oklahoma and New Mexico?

09:52:25 17 A. Today's the first I've heard that he owned anything about
09:52:30 18 horses, Mr. Silva.

09:52:31 19 Q. Okay. So he didn't mention it at all himself?

09:52:33 20 A. Never.

09:52:35 21 Q. And you didn't go to his home, I guess?

09:52:37 22 A. I've never been to his home.

09:52:40 23 Q. Okay. Thank you. No further questions.

09:52:44 24 THE COURT: Mr. Esper.

09:52:46 25 MR. ESPER: I have no questions.

09:52:47 1 THE COURT: Mr. Mayr?

09:52:48 2 MR. MAYR: Nor do I, your Honor.

09:52:49 3 THE COURT: Any redirect?

09:52:53 4 RE-DIRECT EXAMINATION

09:52:53 5 BY MR. GARDNER:

09:52:57 6 Q. Just real briefly, Mr. Jaff.

09:53:00 7 Talking about the rigs, again, could it have been more
09:53:03 8 than one rig you saw on the property?

09:53:09 9 A. I want to remember two rigs, but I can't confirm that it was
09:53:12 10 two. I'm sorry.

09:53:13 11 Q. That's fine.

09:53:14 12 And then, on Mr. Colorado's career, he worked for
09:53:23 13 Pemex. Is that your statement he worked for Pemex?

09:53:25 14 MR. WOMACK: Objection. This is beyond the scope. I
09:53:29 15 only asked about Mr. Silva-Ramos.

09:53:31 16 THE COURT: I'm going to let him answer the question.

09:53:33 17 Q. (BY MR. GARDNER) The question is, he worked for Pemex and
09:53:37 18 then, he started ADT, correct?

09:53:38 19 A. Correct.

09:53:39 20 Q. I just wanted to make sure that was clear. That's all I
09:53:42 21 have, your Honor.

09:53:42 22 THE COURT: May this witness be excused? You may be
09:53:47 23 excused, sir.

09:53:47 24 THE WITNESS: Thank you.

09:53:48 25 THE COURT: Yes, sir. Call your next witness.

09:54:01 1 MR. GARDNER: Your Honor, may I have a moment to confer
09:54:03 2 with counsel?

09:54:04 3 THE COURT: Sure.

09:55:08 4 MR. GARDNER: Your Honor, we call Special Agent Michael
09:55:10 5 Fernald.

09:55:22 6 MR. DEGEURIN: Again, your Honor. May we approach?

09:55:38 7 (At the bench, on the record.)

09:55:42 8 MR. SANCHEZ: Your Honor, the next witness has a
09:55:44 9 summary chart and it's, I think, the government's intention to
09:55:47 10 summarize evidence that's in evidence. There is some minor
09:55:55 11 disputes that we have with some of the evidence, like I think
09:55:59 12 they were intending to have Mr. Jaff talk about three rigs and
09:56:03 13 they only talked about one rig, and they show up in the chart
09:56:06 14 that there's three rigs. And then --

09:56:09 15 THE COURT: Actually, we had one, two and now we're at
09:56:13 16 three.

09:56:13 17 MR. SANCHEZ: Right. And another issue is about
09:56:17 18 whether there was one suspension from Pemex or two suspensions,
09:56:21 19 and he only -- he was unclear about that. I think what the
09:56:26 20 government's going to rely on is a e-mail where that's not yet
09:56:33 21 introduced into evidence, and it's an e-mail from somebody inside
09:56:40 22 UBS to Ricardo Barrera. It was given to us, but still, wasn't
09:56:44 23 something we could cross the person who wrote the e-mail.

09:56:48 24 We can confront the person who wrote the e-mail and
09:56:51 25 elicit information. I think it's possible we can come to an

09:56:53 1 agreement as far as the summary chart. But I don't know if we
09:56:57 2 can do it while he's directing the next witness. I don't know if
09:57:02 3 it's --

09:57:06 4 MR. DEGEURIN: The point is not necessarily for timing
09:57:07 5 but the flow of the trial, it might make sense to take a break
09:57:10 6 now, just a ten-minute break so we can discuss.

09:57:13 7 MR. GARDNER: I'm fine with them just cross-examining
09:57:15 8 on his opinion and the stuff he's placed on the chart. If they
09:57:18 9 think it's incorrect, then they can cross-examine.

09:57:19 10 THE COURT: Well, what they're asking is a ten-minute
09:57:21 11 break and I'm going to have to give it right in the middle of
09:57:23 12 your presentation. So I mine as well take it now.

09:57:29 13 MR. SANCHEZ: And so we're clear about this, if he
09:57:33 14 introduces a summary and it's not based on the testimony that's
09:57:35 15 yet in evidence, then it's going to require us to draw out
09:57:38 16 something that's not in evidence that we've never had a right to
09:57:40 17 confront. But that's our issue.

09:57:43 18 MR. GARDNER: He's identified as an expert witness. An
09:57:46 19 expert witness can base his opinions on the things he's seen.

09:57:49 20 THE COURT: I went to law school a long time. I wasn't
09:57:57 21 particularly good at it. So I don't need any help with --

09:58:00 22 MR. GARDNER: Yes, sir.

09:58:03 23 THE COURT: I've got eight lawyers right here, and I
09:58:06 24 promise you, if I need help, I will take it. We'll take a
09:58:13 25 ten-minute break.

09:58:14 1 MR. SANCHEZ: Thank you, your Honor.

09:58:20 2 THE COURT: There was a lot of talk, but what they
09:58:22 3 really wanted was a break. They've been working since before
09:58:28 4 8:30. So I know you don't need one, but you can stretch and
09:58:32 5 enjoy it. But I'm going to give them 15 minutes.

09:59:09 6 (Jury not present.)

09:59:20 7 THE COURT: Counsel, I don't know about whether there's
09:59:26 8 one, two or three oil wells or rigs, and I don't know about the
09:59:31 9 other. But I do know that I let Mr. Barrera go at your request.
09:59:39 10 So keep that in mind.

09:59:41 11 MR. SANCHEZ: Yes, your Honor.

09:59:42 12 THE COURT: All right. Y'all work out your agreements
09:59:43 13 and take a 15-minute break.

10:11:01 14 (Recess.)

10:14:02 15 THE COURT: Got everything worked out?

10:14:22 16 MR. GARDNER: We do, your Honor.

10:14:23 17 THE COURT: Good.

10:15:59 18 (Jury present.)

10:16:10 19 MR. GARDNER: Your Honor, government calls Special
10:16:12 20 Agent Michael Fernald.

10:16:18 21 (Witness sworn.)

10:16:33 22 THE COURT: Tell us your full name and spell your last,
10:16:49 23 please.

10:16:50 24 THE WITNESS: Yes, sir. Michael J. Fernald,
10:16:54 25 F-E-R-N-A-L-D.

10:16:56 1 MICHAEL J. FERNALD, called by the Government, duly sworn.

10:16:56 2 DIRECT EXAMINATION

10:16:56 3 BY MR. GARDNER:

10:16:57 4 Q. Thank you, your Honor.

10:16:57 5 Special Agent Fernald, could you please introduce
10:17:00 6 yourself to the jury?

10:17:02 7 A. Sure. My name is Michael Fernald. I'm 39 years old and
10:17:06 8 here from Austin. Graduated from high school in 1992. Out of
10:17:11 9 high school, I joined the U.S. Army until 1997. Out of the Army,
10:17:16 10 I attended college and graduated from the University of Texas in
10:17:20 11 Austin with a Bachelor's Degree in Accounting, Master's Degree in
10:17:24 12 Accounting.

10:17:25 13 Q. And are you a Certified Public Accountant?

10:17:27 14 A. I am a CPA.

10:17:27 15 Q. And what's your current assignment?

10:17:29 16 A. I'm a special agent with the Criminal Investigation Division
10:17:32 17 of the IRS.

10:17:33 18 Q. And how long have you been with the IRS?

10:17:35 19 A. Since 2002.

10:17:37 20 Q. Could you generally explain to the ladies and gentlemen of
10:17:40 21 the jury what a criminal investigator from the IRS does?

10:17:43 22 A. Sure. An IRS criminal investigator, essentially we're
10:17:47 23 fact-gatherers. We gather facts based upon information as
10:17:51 24 received. We analyze the information. Generally it's related to
10:17:56 25 criminal violations with the Internal Revenue Code. However, we

10:18:00 1 also have jurisdiction over really any type of crimes that
10:18:05 2 involve moneys. For instance, wire frauds or investment fraud
10:18:11 3 schemes. We investigate the information, provide the information
10:18:17 4 to the U.S. Attorney's Office and make a determination if it's
10:18:20 5 presented to the grand jury for indictment.

10:18:23 6 Q. I notice you have the same last name as my charming
10:18:26 7 co-counsel over here.

10:18:27 8 A. I do.

10:18:27 9 Q. Are you related to this woman?

10:18:29 10 A. I'm fortunate enough to be married to her. Yes.

10:18:33 11 Q. And I'm asking the questions because you're under oath and
10:18:35 12 sworn to tell the truth, right?

10:18:37 13 A. Sure.

10:18:42 14 Q. I'm protecting you.

10:18:45 15 In all seriousness, since this trial started, have you
10:18:49 16 discussed any of the other witnesses' testimony with your spouse
10:18:52 17 regarding your testimony here today?

10:18:54 18 A. Absolutely not.

10:18:55 19 Q. And that's because you're under the rule that prevents you
10:18:58 20 as a witness talking to other folks about other witnesses'
10:19:02 21 testimony?

10:19:02 22 A. That's correct.

10:19:03 23 Q. So the investigation, your results have mainly been between
10:19:07 24 you and I?

10:19:08 25 A. That's correct.

10:19:08 1 Q. So when did you join this investigation?

10:19:11 2 A. I got involved in late September, early October of last
10:19:15 3 year.

10:19:15 4 Q. And what was your role?

10:19:17 5 A. My role was very simple. It was financial analysis of Jose
10:19:21 6 Trevino and his companies Tremor Enterprises, 66 Land, Zule
10:19:29 7 Farms, and a financial analysis of Francisco Colorado-Cessa and
10:19:33 8 his company ADT Petro Servicios.

10:19:35 9 Q. Let's start with Defendant Colorado's financial analysis.
10:19:43 10 What specifically did you review for your testimony here today
10:19:47 11 regarding Defendant Colorado?

10:19:49 12 A. For Mr. Colorado, for ADT Petro Servicios, I reviewed bank
10:19:54 13 statements, financial statements, and also obtained information
10:19:58 14 from witness statements and conversations I've had with case
10:20:02 15 agents.

10:20:04 16 Q. And with respect to the UBS accounts, how many accounts did
10:20:08 17 you analyze?

10:20:10 18 A. There were a total of six accounts, however, only four were
10:20:13 19 actually funded, meaning four actually had money.

10:20:17 20 Q. And that's Government's Exhibit 252A through F that's in one
10:20:19 21 of these boxes over here, correct?

10:20:21 22 A. That's correct.

10:20:21 23 Q. And did you -- what other accounts of Defendant Colorado did
10:20:26 24 you evaluate?

10:20:27 25 A. Mr. Colorado or his company ADT Petro Servicios had several

10:20:32 1 accounts in the United States. They included a UBS account,
10:20:37 2 Compass account, an account at International Bank, and an account
10:20:46 3 at American Express International Bank. He also had a loan from
10:20:54 4 Arian Jaff or Quick Loans. I believe that's all.

10:20:59 5 Q. Now, with respect to the UBS materials, the jury yesterday
10:21:03 6 saw financial statements from ADT Petro Servicios. Did you
10:21:08 7 review those?

10:21:08 8 A. I did.

10:21:09 9 Q. Okay. What years did you review them?

10:21:11 10 A. There was 2008, 2009 and 2010.

10:21:15 11 Q. And were you able to obtain a 2011 financial statement from
10:21:20 12 ADT?

10:21:20 13 A. I was not, or 2012.

10:21:22 14 Q. Now, the jury saw two separate ADT financial statements, one
10:21:27 15 was signed and unsigned. Did you compare the numbers on one to
10:21:29 16 the other for the same years?

10:21:31 17 A. I did. So for 2008, 2009 there were two separate financial
10:21:36 18 statements. One being signed, the other being unsigned. The
10:21:41 19 difference between the two were the ones that were unsigned had a
10:21:47 20 higher net income, meaning they had a lower amount of expenses
10:21:51 21 for ADT Petro Servicios.

10:21:52 22 Q. And so, which one would be the most generous with regards to
10:21:58 23 Defendant Colorado's financial status?

10:22:00 24 A. The ones that were unsigned, the ones that I utilized in my
10:22:04 25 financial analysis.

10:22:05 1 Q. So more conservative analysis based on those, rather than
10:22:08 2 the signed ones?

10:22:09 3 A. That's correct. I wanted to give Mr. Colorado and ADT the
10:22:12 4 benefit of the doubt.

10:22:13 5 Q. All right. Did you -- or are you aware of other agents
10:22:16 6 attempting to obtain any documents from the country of Mexico?

10:22:19 7 A. I did.

10:22:19 8 Q. And what efforts were made to obtain any documents related
10:22:22 9 to Defendant Colorado from the country of Mexico?

10:22:25 10 A. Well, there were actually three. I personally sent a
10:22:29 11 request through FinCEN, which is Financial Crimes Enforcement
10:22:33 12 Network. Essentially it's a branch of United States Treasury.
10:22:37 13 They have attachés. They have the abilities in other countries
10:22:41 14 to get financial information. They were unsuccessful in their
10:22:44 15 efforts to obtain information.

10:22:46 16 We within the IRS have an attaché in Mexico, as well.
10:22:50 17 There was a request that was sent to the attaché. He was
10:22:53 18 unsuccessful. And then, there was a more formal, called MLAT
10:22:58 19 request through Department of Justice, I believe, to the
10:23:01 20 government in Mexico, and that was unsuccessful, as well.

10:23:03 21 Q. Were all those requests made in 2012?

10:23:06 22 A. Around there. Yes, sir.

10:23:08 23 Q. Now, the Defendant Colorado's provided some materials of
10:23:14 24 their own in discovery with regards to bank records. Did you
10:23:16 25 review those?

10:23:17 1 A. Briefly.

10:23:18 2 Q. And what did that information consist of?

10:23:21 3 A. It consisted of incomplete bank records for ADT Petro

10:23:27 4 Servicios.

10:23:27 5 Q. When you say incomplete, could you define that a little bit

10:23:29 6 more for the jury?

10:23:31 7 A. Incomplete meaning there were no signature cards. Generally

10:23:36 8 they only consisted of bank statements. There were no -- what I

10:23:41 9 refer to as source items, checks, wires, the actual source item

10:23:47 10 that makes up the deposit or withdrawal from the bank statement.

10:23:50 11 Q. So, example, if I were to write a check to Michael Fernald

10:23:54 12 and deposit it into your account, would that show up on your

10:23:56 13 statement?

10:23:57 14 A. That would show up on my statement probably as just a

10:23:59 15 deposit, but to know that you actually wrote it to me, I would

10:24:03 16 need the physical check, or the copy of the check, or image of

10:24:08 17 the check.

10:24:08 18 Q. And were there any contracts provided in that discovery that

10:24:11 19 you found with respect to oil field --

10:24:14 20 A. No.

10:24:16 21 Q. -- purchases?

10:24:17 22 Now, is the information that the defendant provided,

10:24:19 23 has that changed your analysis?

10:24:21 24 A. It does not.

10:24:22 25 Q. What's the purpose of the financial analysis?

10:24:25 1 A. The purpose of the financial analysis, as far as I was
10:24:28 2 concerned, I was mostly interested in his financial wherewithal
10:24:32 3 and the cash flow, the amount of cash that was coming into ADT.

10:24:36 4 Q. And so, what do you do? How do you work through the
10:24:41 5 financial analysis via your process or your method?

10:24:47 6 A. Well, since I was mostly concerned with the cash flow, like
10:24:50 7 I said, coming into ADT, I did two separate things for Mr.
10:24:55 8 Colorado and ADT. When I say ADT, I'm referring to ADT Petro
10:25:01 9 Servicios. There were the financial statements and then, there
10:25:03 10 were the bank records for the accounts. For the bank accounts I
10:25:08 11 did what's called a source application. Essentially I input from
10:25:11 12 the bank statements the information into an Excel spreadsheet,
10:25:15 13 and I separated all source items or all deposits and all
10:25:20 14 applications or withdrawals. So I knew exactly what was coming
10:25:24 15 into the account and how the moneys were being utilized.

10:25:27 16 Now, for the financial statements, there was a balance
10:25:34 17 sheet and an income statement, and essentially what I did, I
10:25:37 18 compared the amount of money that's coming in to the amount of
10:25:41 19 money that's coming out.

10:25:41 20 Q. On the ADT Petro Servicios?

10:25:44 21 A. On the financial statements.

10:25:45 22 Q. The ones that were provided by them to?

10:25:47 23 A. UBS.

10:25:49 24 Q. And generally did you conduct an analysis of the UBS -- the
10:25:55 25 four funded accounts from UBS?

10:25:56 1 A. I did.

10:25:56 2 Q. For what years was that?

10:25:57 3 A. That was the UBS account was -- there was one that funded in

10:26:02 4 late 2009. So 2009, '10, '11 and 2012.

10:26:08 5 Q. And so, you mentioned the source and application. Could you

10:26:11 6 define what you're looking for when you talk about source and

10:26:13 7 application?

10:26:14 8 A. Sure. I'm basically tracing money. I want to know the

10:26:18 9 moneys that are coming in, where those are being derived, and how

10:26:23 10 they're being utilized.

10:26:24 11 Q. And I'm not going to subject the jury to one of your

10:26:27 12 spreadsheets, but did you prepare this in aid of your testimony

10:26:32 13 here today?

10:26:32 14 A. I did.

10:26:33 15 Q. Okay. Is that an accurate reflection of the documents that

10:26:37 16 you reviewed and the information that you received from all

10:26:39 17 sources in conducting your financial analysis?

10:26:41 18 A. That's correct.

10:26:42 19 Q. Did you prepare this as an aid to explain your testimony to

10:26:46 20 the jury?

10:26:46 21 A. I did.

10:26:47 22 Q. Your Honor, I offer Government's Exhibits 404B.

10:27:05 23 MR. SANCHEZ: No objection.

10:27:11 24 THE COURT: 404B is received.

10:27:14 25 Q. (BY MR. GARDNER) Special Agent Fernald, what does this chart

10:27:42 1 represent?

10:27:43 2 A. This is essentially a timeline of events related to ADT and
10:27:49 3 Francisco Colorado.

10:27:50 4 Q. So here on the bottom is exactly what you said, it is a
10:27:55 5 timeline, correct?

10:27:55 6 A. Yes.

10:27:55 7 Q. And what is the long axis up here at this column?

10:27:59 8 A. I'm sorry?

10:27:59 9 Q. What will be on the long axis, this column?

10:28:01 10 A. There's specific events -- as we go through, there's
10:28:04 11 specific events that will be highlighted.

10:28:06 12 Q. Okay. So let's talk about the first event.

10:28:09 13 A. Sure. So in May of 2001, ADT Petro Servicios is formed.

10:28:22 14 Q. Next, please. What's this number?

10:28:26 15 A. All right. That's \$18 million that essentially capitalized
10:28:31 16 ADT Petro Servicios that Mr. Colorado received from Efrain
10:28:35 17 Torres.

10:28:35 18 Q. Okay. That's based on the testimony of another witness.

10:28:38 19 The jury's going to determine that credibility of that testimony.
10:28:42 20 You just put it on here for your analysis?

10:28:44 21 A. Correct.

10:28:44 22 Q. Do you use that amount in conducting your financial
10:28:47 23 analysis?

10:28:47 24 A. I did not.

10:28:48 25 Q. So didn't factor into your overall opinion of the net worth

10:28:53 1 of the company?

10:28:54 2 A. Not of that aspect. No.

10:28:56 3 Q. Next, please. This \$2 million, what is this, sir?

10:29:01 4 A. That's essentially just showing an outlay of \$2 million for
10:29:05 5 the purchase of an oil rig by ADT.

10:29:08 6 Q. Okay. And just for the record, when you say the date on
10:29:11 7 that.

10:29:12 8 A. March 1st of 2010.

10:29:14 9 Q. And what occurred here in April through August of 2010?

10:29:20 10 A. In April, ADT was suspended from bidding on Pemex contracts
10:29:24 11 and it was summarily lifted.

10:29:27 12 Q. Do you have that reflected here? So about six months or
10:29:31 13 six-month suspension?

10:29:33 14 A. Around that number. Yes.

10:29:35 15 Q. Next event, please. And where do you get the \$39 million on
10:29:51 16 the oil rigs at the ranch?

10:29:53 17 A. I got that information through the documents in UBS and
10:29:57 18 then, from the statement. So essentially just showing there's
10:30:01 19 more cash outlay coming out of ADT.

10:30:03 20 Q. Expenses that he is --

10:30:04 21 A. Expenses out of ADT.

10:30:06 22 Q. And this right here with respect to this suspension?

10:30:08 23 A. That's a subsequent suspension where ADT was forbidden from
10:30:14 24 bidding on Pemex contracts.

10:30:16 25 Q. And, again, where did you obtain that information from?

10:30:19 1 A. From the UBS records and from witness statements.

10:30:22 2 Q. Okay. Next, please.

10:30:24 3 A. We're going to have to go back to the left. I'm sorry.

10:30:28 4 There's more.

10:30:28 5 Q. So what are these purple dots? What do they represent?

10:30:31 6 A. Those are deposits from ADT to Francisco Colorado-Cessa's

10:30:36 7 wife Maria Salman. The first deposit was a \$50,000 deposit in

10:30:43 8 November 28, 2011, and that coincides to when she moved to

10:30:49 9 Houston from Tuxpan.

10:30:51 10 Q. Okay. Again, these go in from what account to what account?

10:30:55 11 A. This is going from ADT account to a Frost Bank account in

10:31:00 12 the United States.

10:31:01 13 Q. And there's two subsequent payments here. One on 1-23 of

10:31:05 14 '12 and one on May 3rd of '12.

10:31:08 15 A. That's correct. So a total of \$300,000 was deposited to the

10:31:11 16 Frost Bank account. And as I reviewed that account, it was

10:31:15 17 obviously that was -- she was living out of that account. She

10:31:18 18 was in the United States.

10:31:18 19 Q. So when you say living out of it?

10:31:20 20 A. Expenses. It was everyday expenses.

10:31:24 21 Q. Next, please. Special Agent Fernald, what does this line

10:31:31 22 represent?

10:31:31 23 A. This next line's going to say bank-to-bank transfers.

10:31:35 24 Again, just putting a perspective and showing the moneys coming

10:31:39 25 out of ADT and being deposited to accounts in the United States,

10:31:43 1 whether it's UBS, International Bank, Frost Bank, America Express
10:31:49 2 Bank, or Compass.

10:31:53 3 Q. The banks that you identified through subpoenaed records and
10:31:56 4 search warrant items?

10:31:57 5 A. That's correct.

10:31:58 6 Q. Next, please.

10:32:05 7 A. So in June of 2009, there was \$764,500 deposit from ADT to
10:32:14 8 the Compass Bank account, and that was the opening deposit in
10:32:17 9 that account.

10:32:18 10 Q. And did you track the expenses -- the subsequent expenses
10:32:21 11 from that account?

10:32:22 12 A. I did.

10:32:22 13 Q. And could you tell the jury what you discovered?

10:32:26 14 A. Well, shortly after the \$764,500 was deposited, there was a
10:32:32 15 \$600,000 unknown purchase. I've had discussions with Compass
10:32:39 16 Bank. It's believed that Mr. Colorado purchased several
10:32:43 17 certificates of deposit from that. But there were some
10:32:47 18 subsequent deposits to the account, as well. But that was the
10:32:49 19 biggest chunk of that money.

10:32:51 20 Q. Next, please. And I believe we've heard testimony from Mr.
10:32:58 21 Barrera that he brought Defendant Colorado's account over from
10:33:02 22 AMX to UBS?

10:33:04 23 A. That's the balance from the account from American Express.
10:33:06 24 And that's the opening deposit to the UBS account in December
10:33:15 25 '09.

10:33:15 1 Q. Explain all these, please.

10:33:16 2 A. Again, just a summary of movement of funds that's
10:33:21 3 approximately \$14, \$15 million coming out of ADT and being
10:33:25 4 deposited into Mr. Colorado's personal account. The importance
10:33:30 5 is just that's \$15 million that is not available to pay expenses
10:33:34 6 at the company.

10:33:36 7 Q. And you're going to talk a little bit about the credit
10:33:39 8 facility that Mr. Barrera discussed yesterday, correct?

10:33:42 9 A. Yes.

10:33:42 10 Q. Next, please. And what are these, sir?

10:33:49 11 A. Again, more transfers from ADT to personal accounts, all of
10:33:55 12 them in 2011. So right now, we're just going by year, transfers
10:33:59 13 in 2010, 2011.

10:34:04 14 Q. Next, please. And what is this one right here?

10:34:10 15 A. All right. That's in October of 2011. This deposit was
10:34:16 16 directly from Pemex. It never was deposited to the ADT account.
10:34:21 17 Essentially they needed that deposit. Mr. Colorado needed that
10:34:24 18 deposit. Because of the credit facility you just mentioned, Mr.
10:34:27 19 Colorado wanted to draw down on the credit facility, but he
10:34:32 20 needed to make deposits into the collateral account in order for
10:34:35 21 the loan-to-value ratio to be sufficient for UBS to make that
10:34:39 22 loan. So that's what this deposit was was just to get the
10:34:43 23 collateral to the right ratios.

10:34:45 24 Q. And you talked with Mr. Barrera, correct?

10:34:47 25 A. I did.

10:34:48 1 Q. And he said they needed anywhere from a 60 to 80 percent
10:34:52 2 loan-to-value ratio?

10:34:54 3 A. Loan-to-value ratio. That's correct.

10:34:55 4 Q. So this UBS or this Pemex deposit is to ensure that ratio is
10:35:00 5 satisfactory to UBS?

10:35:00 6 A. That's correct. Because without this deposit, the
10:35:03 7 loan-to-value ratio would not have been sufficient.

10:35:05 8 Q. Next, please.

10:35:12 9 A. Same thing.

10:35:13 10 Q. Next, please.

10:35:14 11 A. Same thing. Mr. Colorado did not have enough money in his
10:35:18 12 collateral account to draw down on it, so he had to make
10:35:21 13 deposits. And these are, again, coming directly from Pemex.
10:35:24 14 They're not being utilized by ADT.

10:35:27 15 Q. So these are not funds available for ADT?

10:35:30 16 A. That's correct.

10:35:31 17 Q. For what?

10:35:31 18 A. For expenses of the company.

10:35:33 19 Q. Their operating expenses?

10:35:35 20 A. That's correct.

10:35:35 21 Q. Next, please. And these are?

10:35:43 22 A. Again, more movement of funds from ADT to UBS. There's two
10:35:47 23 more transfers.

10:35:49 24 Q. Next, please. And what is this line right here, sir?

10:35:53 25 A. This line is the timeline of the loans Mr. Colorado received

10:35:57 1 from Arian Jaff.

10:35:59 2 Q. And you've been present and discussed and reviewed Mr.
10:36:03 3 Jaff's material, correct?

10:36:04 4 A. I have.

10:36:05 5 Q. Next, please. So I'm showing the jury -- you'll recall Mr.
10:36:11 6 Jaff's testimony -- but we have Mr. Colorado meeting?

10:36:15 7 A. That's correct.

10:36:16 8 Q. Meeting Mr. Jaff. Next, please.

10:36:20 9 A. This is the first loan for \$500,000. Mr. Colorado initially
10:36:27 10 asked Mr. Jaff for a \$10 million loan and only got \$500,000.

10:36:32 11 Q. And do you recall the interest rate on that particular loan?

10:36:35 12 A. I don't. It was around 15 percent or so.

10:36:38 13 Q. Next, please.

10:36:41 14 A. And this is the second loan that Mr. Colorado obtained
10:36:45 15 through Mr. Jaff. This loan was actually a million-dollar loan
10:36:51 16 that Mr. Colorado paid prepaid interest on. So he only got
10:36:56 17 \$856,000 and some change out of a million dollars because of the
10:37:00 18 prepaid interest.

10:37:01 19 Q. And describe prepaid interest for the jury, please.

10:37:04 20 A. Well, essentially you're paying interest before the loan is
10:37:09 21 -- before the interest is due essentially.

10:37:12 22 Q. Whether you have a loan in a month or a year, the interest
10:37:16 23 is the same?

10:37:16 24 A. So essentially what Mr. Colorado was doing -- I don't
10:37:19 25 specifically recall the terms of the loan, whether they were

10:37:22 1 six-month loan or a year loan, but essentially Mr. Colorado was
10:37:26 2 paying the entire amount of the interest. For instance, say if
10:37:29 3 it was a year loan, he was paying a year's worth of interest up
10:37:33 4 front.

10:37:33 5 Q. So if he would have paid that back in six months, would it
10:37:37 6 still have been the same amount?

10:37:38 7 A. That's right. He would have eaten six months worth of
10:37:41 8 interest.

10:37:41 9 Q. Next, please. And what are these, sir?

10:37:44 10 A. These are the repayments to Mr. Jaff for the first two
10:37:48 11 loans. And the \$1 million on December 21st, that was from
10:37:58 12 Mr. Colorado's retirement account at Compass.

10:38:01 13 Q. Compass Bank?

10:38:02 14 A. From Compass Bank.

10:38:03 15 Q. So not from UBS?

10:38:05 16 A. Not from UBS, not from ADT.

10:38:08 17 Q. Next, please. And Mr. Jaff just testified, so I'm sure that
10:38:31 18 testimony is fresh in the jury's mind.

10:38:33 19 But, again, this is something that you accounted for in
10:38:35 20 your analysis as funds available to.

10:38:37 21 A. That's funds available. Correct.

10:38:40 22 Q. And right here at the end, what is this?

10:38:46 23 A. Mr. Colorado still owes Mr. Jaff \$88,000.

10:38:49 24 Q. So are these right here repayments on that?

10:38:52 25 A. That's correct. The dots in red are the loans. Beneath

10:38:57 1 those, the yellow dots are the repayments.

10:38:59 2 Q. So the last loan was made in November on the 16th up --

10:39:06 3 except for the \$88,000, how long did it take the Defendant

10:39:09 4 Colorado to repay that loan?

10:39:19 5 A. Almost six months.

10:39:21 6 Q. Next, please. Now, this slide says, horse purchases. What

10:39:28 7 did you do with respect to tracking the number of purchases that

10:39:33 8 you identified as being associated with Defendant Colorado?

10:39:37 9 A. Well, I've had several conversations with the case agents

10:39:40 10 about the horse purchases and those agents that were responsible

10:39:44 11 for essentially tracking those purchases. So the purchases are

10:39:50 12 based upon the bank accounts that I reviewed, as well. But the

10:39:54 13 number of horses is based upon my conversations with the -- my

10:39:58 14 fellow case agents.

10:39:58 15 Q. So in terms of the bank accounts, the actual checks or

10:40:01 16 wires?

10:40:02 17 A. The actual transaction was within the -- the accounts that I

10:40:05 18 reviewed.

10:40:05 19 Q. Okay. And whose name did you evaluate to put on this chart?

10:40:11 20 A. This is solely Francisco Colorado-Cessa or ADT Petro

10:40:17 21 Servicios.

10:40:17 22 Q. Next, please. And so, this one, sir?

10:40:20 23 A. And this is, again, by year, those horse purchases in 2008,

10:40:28 24 about a half-million dollars.

10:40:29 25 Q. And do you recall where that purchase was made?

10:40:33 1 A. Those were through the American Express Bank.

10:40:36 2 Q. Next, please.

10:40:39 3 A. Again, the purchases in 2009, over half a million dollars.

10:40:44 4 Q. Next, please. And where were these purchases made in 2010?

10:40:50 5 A. These purchases were in 2010. And then, below there in the

10:40:54 6 gray, those are the expenses that Mr. Colorado or ADT paid.

10:40:58 7 Q. So when you say purchase, I believe we heard from Ms. Diane

10:41:02 8 Reed from Ruidoso. Is that the \$2.2 million personal check?

10:41:06 9 A. That's the personal check coming out of Compass Bank that

10:41:09 10 was funded with wires from ADT.

10:41:11 11 Q. And when you say expenses, what do you refer to? What type

10:41:16 12 of expenses?

10:41:17 13 A. Boarding expenses, training expenses, entry fee, things of

10:41:21 14 that nature.

10:41:21 15 Q. And this right here, couple of months later?

10:41:25 16 A. That's correct. More.

10:41:27 17 Q. Next, please.

10:41:28 18 A. I believe that 12,000 was a partial payment.

10:41:31 19 Q. And these two horse purchases, where did those two come

10:41:36 20 from?

10:41:39 21 A. The 131,00 and 300,000, I would have to look. I don't

10:41:43 22 recall exactly where they came from. Either ADT or the personal

10:41:47 23 accounts in the United States.

10:41:49 24 Q. They didn't come from UBS?

10:41:51 25 A. No. I'm sorry. The 300,000 did come from UBS to Mueller

10:41:57 1 Racing.

10:41:57 2 Q. This is Mueller Racing?

10:41:59 3 A. That's Mueller Racing.

10:42:00 4 Q. Next, please.

10:42:09 5 A. Just more expenses.

10:42:11 6 Q. Next, please. Where does this 3,700,000 come from?

10:42:18 7 A. That's the cumulative amount. So essentially because we ran

10:42:23 8 out of room on the chart, we had to put it like this. That's a

10:42:27 9 cumulative amount that consisted of eight transactions that

10:42:31 10 totalled \$3.7 million.

10:42:34 11 Q. Next, please.

10:42:37 12 A. And then, there was a subsequent purchase in the next month

10:42:40 13 of almost a million dollars. And you see below there, more

10:42:44 14 expenses. And as you continue on, there's just more purchases

10:42:47 15 and expenses.

10:42:51 16 Q. Next, please. And can you give me the last one? And is

10:42:58 17 this the last expense you tracked in June of 2012?

10:43:00 18 A. That's correct.

10:43:01 19 Q. That's for \$177,979?

10:43:04 20 A. That's correct.

10:43:07 21 Q. Special Agent Fernald, were you able to determine if there's

10:43:12 22 any other source of income for the Defendant Colorado?

10:43:16 23 A. No.

10:43:18 24 Q. Any other personal accounts that you discovered in the U.S.

10:43:21 25 or Mexico, either through your investigation or through the

10:43:24 1 material provided by the defendant?

10:43:26 2 A. Not that I'm aware.

10:43:27 3 Q. All right. So in your opinion, what is your analysis of the
10:43:31 4 cash flow coming in and out of ADT and Defendant Colorado's
10:43:36 5 personal accounts?

10:43:37 6 A. Based upon my analysis of the 2008, 2009 and 2010 financial
10:43:43 7 statements for ADT, at best, ADT broke even, meaning the expenses
10:43:49 8 of the company were equal to or exceeded the moneys that were
10:43:53 9 available to pay them.

10:43:56 10 Q. And so, this right here, is this basically a summary over
10:44:00 11 here on the right-hand side, a summary of the number of horses he
10:44:03 12 purchased during that timeframe?

10:44:04 13 A. That's correct.

10:44:06 14 Q. And a summary of the horses still maintained in his name
10:44:09 15 during that timeframe?

10:44:10 16 A. That's correct.

10:44:11 17 Q. Next, please. This bottom line, is that, again, a sum of
10:44:36 18 this line up here with respect to horse purchases and horse
10:44:39 19 expenses?

10:44:40 20 A. That's correct, \$10.1 million.

10:44:47 21 Q. What is the significance of that number to the opinion you
10:44:50 22 just gave on ADT's breaking even?

10:44:56 23 A. That Mr. Colorado through ADT could not do both. He
10:44:59 24 couldn't operate and pay the expenses of the company and buy and
10:45:05 25 pay for \$10.1 million worth of horses. It essentially reaffirms

10:45:10 1 the results of the investigation in that Mr. Colorado had to get
10:45:14 2 money from somewhere else.

10:45:15 3 Q. And when you say at best, what do you mean by that? At
10:45:21 4 best, he's breaking even. What do you mean by at best in terms
10:45:24 5 of your analysis as applied to ADT and Mr. Colorado?

10:45:28 6 A. When I referred to at best, meaning he had enough money to
10:45:31 7 pay the expenses. So the expenses, the money available were the
10:45:35 8 same, they equaled each other.

10:45:39 9 Q. Ms. Sims, could I have the lights, please?

10:45:41 10 Now, you also stated earlier that you reviewed the
10:45:48 11 accounts of Jose Trevino.

10:45:50 12 A. I did.

10:45:51 13 Q. What accounts did you review for the Defendant Jose Trevino?

10:45:56 14 A. I reviewed eight bank accounts for Mr. Trevino. There were
10:46:00 15 three personal accounts, two accounts for Tremor Enterprises, one
10:46:07 16 account for 66 Land, and two accounts for Zule Farms.

10:46:11 17 Q. Did you review the tax returns of Defendant Trevino?

10:46:15 18 A. I did not.

10:46:15 19 Q. And why not?

10:46:18 20 A. Well, the tax returns are only as good as the information
10:46:21 21 that's on them, and people are known to lie on their tax returns.
10:46:23 22 That's why there's criminal investigators with the IRS.

10:46:26 23 Q. So your analysis is solely based on the bank accounts?

10:46:30 24 A. That's correct.

10:46:30 25 Q. Now, have you used the same process with respect to the

10:46:36 1 source and applications of funds for Jose Trevino's accounts as
10:46:40 2 you did for Colorado-Cessa?

10:46:42 3 A. I did.

10:46:43 4 Q. Were there any financial statements for any of the Defendant
10:46:46 5 Jose Trevino's companies?

10:46:47 6 A. There were financial statements prepared for Tremor, for 66
10:46:54 7 Land and Zule Farms. But in my analysis, I used the bank
10:46:57 8 statements, and the bank statements were also utilized to prepare
10:46:59 9 the financial statements. So I had all the information.

10:47:02 10 Q. That was the testimony of Ms. Sharon Moore?

10:47:05 11 A. I believe that's what it would have been.

10:47:07 12 Q. Now, again, I'm not going to show the jury a spreadsheet,
10:47:11 13 but on there, you have a number of what you call balance checks.
10:47:15 14 What's a balance check?

10:47:16 15 A. Essentially what I did for Mr. Trevino is for every bank
10:47:21 16 account, again, I input the information from the bank statement
10:47:24 17 into an Excel spreadsheet, and that just affords me the ability
10:47:28 18 to sort and find and manipulate the data. So essentially what I
10:47:33 19 did was I took the information, but I wanted to make sure that I
10:47:37 20 had a continuing balance in the account. So I knew that at any
10:47:41 21 given point for any transaction, I knew what the balance was in
10:47:45 22 the account. In order to do that and know that it's accurate, I
10:47:49 23 had to ensure that the beginning balance and that the ending
10:47:52 24 balance of every month matched the bank statement.

10:47:55 25 So if you recall in your bank statements, I'm sure you

10:47:58 1 have them, there's an opening balance and an ending balance, and
10:48:01 2 in my spreadsheets, the opening balance and the beginning balance
10:48:06 3 match. And on my spreadsheets where you see a little X under the
10:48:09 4 balance checked, that is to verify that those balances do match.
10:48:14 5 Q. Like balancing a checkbook?
10:48:16 6 A. It's like balancing your checkbook.
10:48:17 7 Q. So did you track both the expenses coming out of these
10:48:20 8 accounts as well as the income coming in?
10:48:23 9 A. I did.
10:48:23 10 Q. When we talk about income, what did you look at to determine
10:48:28 11 that?
10:48:29 12 A. Just deposits from the -- to the account from any source,
10:48:32 13 regardless of source.
10:48:33 14 Q. And what sources did you look at to see where the deposits
10:48:36 15 were coming from?
10:48:37 16 A. Well, for all deposits, like I said, regardless of source.
10:48:41 17 Q. So let's talk about wages. Did you look at wages?
10:48:44 18 A. There were wages to the personal account.
10:48:46 19 Q. Let's talk generally from 1990 until 2009, where did you see
10:48:54 20 the wages coming from?
10:48:55 21 A. I found Social Security statements in the search warrant
10:48:59 22 evidence, which summarizes the wage and income amounts for Mr.
10:49:03 23 Trevino and his wife Zulema.
10:49:07 24 Q. Showing you Government's Exhibit 178. Are these the Social
10:49:11 25 Security wage statements, 178A and 178B? Can you just discuss

10:49:18 1 these from the Dallas search warrant site?

10:49:22 2 A. That's correct. For Mr. Trevino, there's a summary for 1991
10:49:27 3 to 2009. And for Zulema Trevino, his wife, there's a summary of
10:49:34 4 wages for 1990 through 2005.

10:49:38 5 Q. Your Honor, I'd offer Government's Exhibit 178A and 178B
10:49:56 6 per relevance objection, your Honor. It's already been admitted.

10:50:00 7 MS. WILLIAMS: I don't have any objection.

10:50:02 8 MR. GARDNER: Okay. Thank you.

10:50:05 9 Q. (BY MR. GARDNER) I'm showing you 178A and this is the --
10:50:19 10 again, the Social Security statement for Jose Trevino, correct?

10:50:29 11 A. That's correct.

10:50:30 12 Q. Is this something everyone gets in the mail every year?

10:50:34 13 A. If you paid in Social Security.

10:50:35 14 Q. And what is that based off?

10:50:37 15 A. Wages.

10:50:41 16 Q. Was there what you testified to as the earnings record for
10:50:45 17 Defendant Jose Trevino?

10:50:46 18 A. That's correct.

10:50:49 19 Q. So on the left-hand column is the year and the middle column
10:50:54 20 is the reported wages?

10:50:58 21 A. Up to the Social Security limit, correct.

10:51:00 22 Q. Correct. And you also did the same on 178B for Zulema
10:51:07 23 Trevino, correct?

10:51:08 24 A. That's correct.

10:51:08 25 Q. Just for the record, they were living at 12909 Timothy Lane,

10:51:13 1 Balch Springs, Texas?

10:51:15 2 A. That's correct.

10:51:17 3 Q. Again, did you use Zulema Trevino's wages to factor into
10:51:25 4 your analysis?

10:51:25 5 A. I did.

10:51:26 6 Q. And why did you consider both Jose Trevino and Zulema
10:51:29 7 Trevino?

10:51:30 8 A. Well, they were -- obviously they're married and I wanted to
10:51:33 9 get their joint income of funds, again, available to them.

10:51:37 10 Q. And so, based on your search warrants and discovery of
10:51:43 11 evidence and subpoenas, were you able to determine the employment
10:51:49 12 during this period 1990, say, 2005 for Zulema Trevino?

10:51:53 13 A. I don't know they went back to 1990, but certainly around
10:51:57 14 2000 and 2001.

10:51:59 15 Q. And what about for the Defendant Jose Trevino, were you able
10:52:02 16 to determine the nature of his employment for those years?

10:52:05 17 A. I was. Not necessarily all the way back to '91 but
10:52:08 18 certainly back in the mid-'90s.

10:52:11 19 Q. So I'd like to turn your attention now to the -- you talk
10:52:14 20 about a Prosperity Bank account?

10:52:17 21 A. That's correct.

10:52:17 22 Q. And what are the dates that you reviewed the Trevinos'
10:52:24 23 Prosperity account?

10:52:25 24 A. For Prosperity, we had records from December of 2007 to
10:52:31 25 September of 2008, when the account was closed.

10:52:34 1 Q. Could you tell the ladies and gentlemen of the jury the
10:52:36 2 source of income for that Prosperity account?

10:52:38 3 A. Correct. Solely wages or there was a tax refund deposit.

10:52:46 4 Q. What was the highest balance on that account on that date
10:52:52 5 you just said, 2007, 2008?

10:52:54 6 A. \$8,692.24 and that was after a \$4,890 tax refund deposit.

10:53:06 7 Q. And what type of expenses were coming out of that account?

10:53:09 8 A. Just everyday general, what I would consider to be living
10:53:12 9 expenses, groceries, gasoline, clothing.

10:53:17 10 Q. And do you know how many children Jose and Zulema Trevino
10:53:20 11 have?

10:53:20 12 A. I know they at least have three. Maybe four.

10:53:23 13 Q. And were there expenses related to the care and upbringing
10:53:26 14 of the children?

10:53:26 15 A. That's correct.

10:53:28 16 Q. And based on your review of that account, did you determine
10:53:31 17 the nature of the employment for Mr. Jose Trevino?

10:53:35 18 A. Mr. Jose Trevino was in construction and, more specifically,
10:53:39 19 a mason. Masonry.

10:53:42 20 Q. Was there any indication that there was a \$25,000 amount
10:53:47 21 that was available to either Zulema Trevino or Jose Trevino at
10:53:52 22 that time?

10:53:52 23 A. No.

10:53:54 24 Q. During your review of the search warrant items, did you
10:53:57 25 discover any record that would reflect they had \$25,000 available

10:54:03 1 to them?

10:54:04 2 A. I did not.

10:54:04 3 Q. Was there any will or any property deeds that indicated they

10:54:11 4 inherited money or sold property?

10:54:14 5 A. No.

10:54:17 6 Q. When was that account closed, the Prosperity account?

10:54:20 7 A. In September. On September 21, 2008.

10:54:24 8 Q. And where did you trace the accounts from there?

10:54:28 9 A. About two months prior to that, they had opened up another

10:54:31 10 account, another personal account at Bank of America.

10:54:35 11 Q. And how was that account funded?

10:54:39 12 A. Again, just deposits from wages.

10:54:42 13 Q. And do you recall the employment at that point that was

10:54:49 14 being deposited into the accounts?

10:54:50 15 A. At that time Mr. Trevino was working for a company D Brown,

10:54:54 16 Inc. Construction Company. And his wife Zulema, I believe at

10:54:58 17 that time, was working for Lakeshore Staffing, a temporary

10:55:02 18 employment-type agency.

10:55:04 19 Q. And what was the highest balance in 2008 at any given point

10:55:11 20 with the Bank of America account?

10:55:16 21 A. Well, in 2008, it was not over \$5,000. I don't know the

10:55:24 22 exact highest balance, but it was not over \$5,000 up to December

10:55:29 23 of 2009.

10:55:32 24 Q. Were there any indications of any other accounts that were

10:55:35 25 in existence either through transfers or other checks written to

10:55:39 1 other accounts?

10:55:39 2 A. There was a very small de minimis savings account. We call
10:55:44 3 it keep-the-change account essentially. Literally pennies were
10:55:48 4 deposited into that savings account. But the balance on that
10:55:53 5 account over the course of six months was \$68.

10:55:57 6 Q. So based on your analysis of the Social Security, the
10:56:02 7 Prosperity Bank, and the bank account, after that point, what did
10:56:05 8 you conclude that the Defendant Trevino did for a living?

10:56:09 9 A. He was in construction and his wife worked whatever jobs
10:56:13 10 that she could get, and they needed every single penny that they
10:56:16 11 needed to support themselves and their family. They did not have
10:56:19 12 disposable income.

10:56:20 13 Q. Did you see any entertainment expense, any plane trips, any
10:56:25 14 other hotel stays coming out of that account?

10:56:27 15 A. No.

10:56:28 16 Q. Was that for both the Prosperity account and the Bank of
10:56:32 17 America account?

10:56:32 18 A. That's correct.

10:56:33 19 Q. Now, the jury has heard some testimony from Dr. Shalyn
10:56:38 20 Bliss, a veterinarian. Did your analysis reveal the sale of any
10:56:42 21 construction company?

10:56:44 22 A. I saw nothing that would lead me to believe that he sold a
10:56:47 23 construction company.

10:56:48 24 Q. Was there any sales documents or corporate documents for any
10:56:52 25 construction company discovered at either the Lexington, Oklahoma

10:56:54 1 or the Dallas, Texas search warrant location?

10:56:57 2 A. I saw nothing like that.

10:56:58 3 Q. Are you aware of the valuation of his home located at the
10:57:03 4 previous address, Balch Springs, Texas?

10:57:06 5 A. I recall seeing a county of Dallas tax statement. I don't
10:57:09 6 recall exactly what year. It was relatively recent, within the
10:57:13 7 past five years around \$60,000.

10:57:17 8 Q. So do you see the activity in the Trevinos' account change
10:57:23 9 in late 2009?

10:57:24 10 A. I did.

10:57:24 11 Q. And what do you notice in that account?

10:57:27 12 A. \$441,855 deposit December 14th of '09.

10:57:34 13 Q. And do you recall what that was from?

10:57:37 14 A. My understanding, it was from the winnings of a horse named
10:57:40 15 Tempting Dash.

10:57:41 16 Q. Was there any indication of your analysis that there was a
10:57:49 17 purchase of that horse coming from the Trevinos' accounts?

10:57:53 18 A. No.

10:57:55 19 Q. There's been testimony that horse was worth approximately
10:57:57 20 \$25,000. Were you able to determine what source of -- where the
10:58:05 21 source of that purchase price came from based on your analysis?

10:58:08 22 A. Mr. Trevino didn't have \$25,000.

10:58:14 23 Q. Do you recall the date of the sale of Tempting Dash from
10:58:19 24 Ramiro Villarreal to Jose Trevino?

10:58:20 25 A. If I recall, it was sometime in September.

10:58:23 1 Q. September 22nd, 2009?

10:58:25 2 A. That sounds accurate.

10:58:26 3 Q. From September 22nd, 2009 till the date of the deposit in

10:58:40 4 December 2009, did you review Jose Trevino's bank accounts?

10:58:47 5 A. I did.

10:58:49 6 Q. Did you see anything consistent with entry fees for races?

10:58:54 7 A. I did not.

10:58:55 8 Q. Did you see anything consistent with boarding fees for that

10:58:59 9 horse?

10:58:59 10 A. No.

10:59:00 11 Q. Did you see anything consistent with training fees?

10:59:03 12 A. No.

10:59:04 13 Q. Jockey fees?

10:59:05 14 A. No.

10:59:06 15 Q. Farrier or horse-shoeing fees?

10:59:10 16 A. No.

10:59:10 17 Q. Veterinary fees?

10:59:11 18 A. No.

10:59:12 19 Q. See any AQHA transfer fees?

10:59:14 20 A. No.

10:59:14 21 Q. See any horse dental work fees?

10:59:16 22 A. No.

10:59:17 23 Q. When, in fact, based on your review of Jose Trevino

10:59:21 24 accounts, did you discover any payment to the American Quarter

10:59:28 25 Horse Association?

10:59:28 1 A. That was later. That was several months, I believe in June
10:59:31 2 of 2010, which was subsequent -- about six months after the
10:59:36 3 deposit from Tempting Dash.

10:59:39 4 Q. At some point, did the Defendant Jose Trevino open another
10:59:44 5 account?

10:59:45 6 A. He did.

10:59:45 7 Q. And when was that?

10:59:49 8 A. On December 1st of 2009, he opened up an account under the
10:59:53 9 name of Tremor Enterprises.

10:59:55 10 Q. So now, he has a Bank of America account under Jose Trevino
10:59:59 11 and an account under Tremor Enterprises and what bank is that?

11:00:03 12 A. Also Bank of America.

11:00:04 13 Q. And I want to jump forward a little bit. Did you find
11:00:08 14 evidence in your analysis that he opened accounts under other
11:00:11 15 entities, business entities?

11:00:13 16 A. He did.

11:00:13 17 Q. And what were those, sir?

11:00:14 18 A. He had a Bank of America account for 66 Land and two Bank of
11:00:20 19 America accounts for Zule Farms.

11:00:23 20 Q. And can you tell the jury how those accounts were funded?

11:00:26 21 A. Those accounts were funded with transfers from Tremor
11:00:31 22 account.

11:00:34 23 Q. And did you speak with Ms. Sharon Moore?

11:00:37 24 A. I have.

11:00:38 25 Q. And do you understand her testimony with respect to the

11:00:40 1 structure of Jose Trevino's business operation?

11:00:44 2 A. Yes.

11:00:44 3 Q. And based on your independent review, as well?

11:00:47 4 A. Correct.

11:00:47 5 Q. So who was the parent company?

11:00:50 6 A. Tremor.

11:00:51 7 Q. And who was the subsidiaries?

11:00:53 8 A. 66 Land and Zule Farms.

11:00:55 9 Q. I'm showing you Bates stamp 12603 of the Government's

11:01:05 10 Exhibit 250. What does this reflect, Special Agent Fernald?

11:01:15 11 A. It's a management fee from Tremor Enterprises to 66 Land in

11:01:20 12 the amount of \$650,000.

11:01:26 13 Q. Why is Tremor Enterprises, the parent company, paying 66

11:01:31 14 Land a management fee?

11:01:32 15 A. That's a good question. It should be the other way around.

11:01:37 16 Q. And all these companies, 66 Land, Tremor and Zule Farms,

11:01:42 17 they're all controlled and managed by who?

11:01:44 18 A. By Tremor, Jose Trevino.

11:01:48 19 Q. Did you find any management agreements in the search warrant

11:01:51 20 material or subpoena records?

11:01:53 21 A. No.

11:01:53 22 Q. Did you find any loan agreements in the search warrant or

11:01:58 23 subpoena records?

11:01:58 24 A. No.

11:01:59 25 Q. Did you discover other checks in the Defendant Jose

11:02:03 1 Trevino's business records that indicate he was making loans to
11:02:07 2 and from the various entities?

11:02:09 3 A. I did.

11:02:10 4 Q. Based on your opinion and your experience, what's that an
11:02:16 5 indicator of?

11:02:18 6 A. He's just trying to disguise moving money from Tremor to 66
11:02:23 7 Land, had to account for it somehow.

11:02:26 8 Q. And based on those notations on the checks, did you discover
11:02:29 9 any promissory notes, any amortization schedule, any employee or
11:02:35 10 employment agreements, as well?

11:02:37 11 A. No.

11:02:38 12 Q. Were there any indications of any other accounts?

11:02:41 13 A. There was a subsequent Tremor account that he opened up. I
11:02:46 14 don't recall in December of 2010.

11:02:54 15 Q. I'm going to show you what's already been admitted into
11:02:56 16 evidence as Government's Exhibit 301. It is a business record
11:02:59 17 from the Adolphus Hotel. Showing you page 55-2093. Have you
11:03:10 18 reviewed this document?

11:03:11 19 A. Yes.

11:03:11 20 Q. This is stated for the Trevino-Garcia wedding, Ms.
11:03:16 21 Alexandra. Do you know who Ms. Alexandra Trevino is?

11:03:20 22 A. Mr. Trevino's daughter.

11:03:23 23 Q. And specific to this date, 4-13-12 -- let me just start from
11:03:31 24 the beginning. 1-9 of '12, there's a check No. 2332 deposit for
11:03:38 25 \$3,500?

11:03:38 1 A. That's correct.

11:03:39 2 Q. Did you have that recorded in your financial analysis of the
11:03:43 3 Defendant Trevino's accounts?

11:03:44 4 A. I did.

11:03:46 5 Q. And with respect to the next entry on April 13, 2012, a cash
11:03:53 6 payment of \$9,500. Was there any indication that during that
11:03:59 7 period of time, the Defendant Jose Trevino withdrew any cash from
11:04:05 8 any of his accounts that you analyzed?

11:04:08 9 A. No. In April of 2012, April 13, 2012, his balance was
11:04:15 10 \$1,600 in his account.

11:04:17 11 Q. And now, did your analysis cover this last payment of May 29
11:04:23 12 of '12, cash, \$19,400?

11:04:27 13 A. It did not. My records stopped on April 30th of 2012.

11:04:41 14 Q. I'm showing you Government's Exhibit 36 that was found in
11:04:46 15 the Lexington, Oklahoma search warrant. Check dated 6-7-2011,
11:04:57 16 No. 1301 from the Tremor account to Francisco Colorado, 400,000
11:05:04 17 for the notation of purchase of Fly First Down.

11:05:08 18 Based on your review of the Defendant Trevino's
11:05:11 19 accounts, did you discover if this check was negotiated?

11:05:14 20 A. That check never cleared.

11:05:18 21 Q. Was it returned for insufficient funds, or was it never
11:05:22 22 submitted to the bank?

11:05:23 23 A. It was never submitted.

11:05:24 24 Q. Did you subsequently find in your analysis an insurance
11:05:28 25 payment to Tremor Enterprises for the death of that horse?

11:05:31 1 A. I did.

11:05:31 2 Q. And when was that, sir?

11:05:34 3 A. I don't recall.

11:05:37 4 Q. Let me just jump ahead. Showing you the same Government's

11:05:43 5 Exhibit's 250B, Bates No. 593136. Was the insurance check before

11:05:51 6 March 21st of 2012? Go ahead and take your time if you need to

11:05:58 7 refresh.

11:05:59 8 A. Insurance check was cleared was deposited to the Tremor

11:06:03 9 account at Bank of America on January 18th of 2012 in the amount

11:06:09 10 of 400,000.

11:06:11 11 Q. So that's money received to Jose Trevino?

11:06:17 12 A. Right. That's his insurance proceeds from the death of the

11:06:20 13 horse.

11:06:23 14 Q. And did you review the insurance documents to see whether or

11:06:27 15 not Mr. Trevino was the payee on that, the loss payee?

11:06:30 16 A. I don't recall.

11:06:31 17 Q. Now, this check also to Francisco Colorado, would you agree

11:06:38 18 with me that it's on March 21st, after the insurance check for

11:06:42 19 400?

11:06:42 20 A. That's correct.

11:06:43 21 Q. And just for the record, this is for \$50,000?

11:06:46 22 A. That's correct.

11:06:47 23 Q. All right. And the same notation?

11:06:49 24 A. That's correct.

11:06:50 25 Q. And when I say same notation, I'm referring to Government's

11:06:53 1 Exhibit 36, purchase of Fly First Down?

11:06:55 2 A. Correct.

11:06:57 3 Q. So was this check negotiated?

11:07:02 4 A. As of April 30th, 2012, no.

11:07:06 5 Q. And when was it negotiated -- oh.

11:07:08 6 A. I don't know. My records stop on April 30th.

11:07:10 7 Q. I understand. And does it appear to be that an individual
11:07:14 8 has signed it, endorsed it or deposited it?

11:07:16 9 A. Yes.

11:07:17 10 Q. Okay. Does the bank information on the back of the next
11:07:21 11 page 3137 indicate the bank routing numbers that it was, in fact,
11:07:26 12 negotiated?

11:07:26 13 A. That's correct. If I could correct myself. That check was
11:07:37 14 negotiated April 20th.

11:07:40 15 Q. And so, how much?

11:07:42 16 A. I'm sorry. It cleared the bank on April 20th.

11:07:45 17 Q. What's the -- I'll call it the delta, the change between the
11:07:49 18 amount of money that he received from the insurance company and
11:07:52 19 the amount he gets paid from Francisco Colorado?

11:07:56 20 A. \$350,000.

11:08:00 21 Q. Now, did you also prepare a chart so we're not subjected to
11:08:09 22 your spreadsheets to explain your testimony?

11:08:11 23 A. I did.

11:08:12 24 Q. And do you recognize that, sir?

11:08:14 25 A. I do.

11:08:14 1 Q. And is that the chart you prepared with respect to your
11:08:17 2 financial analysis of Jose Trevino and his entities?

11:08:21 3 A. It is.

11:08:22 4 Q. For the record, your Honor, that's 404A. We offer for
11:08:26 5 demonstrative purposes only.

11:08:27 6 MS. WILLIAMS: No objection.

11:08:32 7 THE COURT: Received.

11:08:33 8 Q. (BY MR. GARDNER) Ms. Sims, could I have the lights down,
11:08:38 9 please?

11:08:39 10 Special Agent Fernald, what does this chart reflect in
11:08:51 11 terms of your analysis?

11:08:53 12 A. This is solely the -- this is a cash flow analysis,
11:08:56 13 essentially is any earnings or deposits to Mr. Trevino, Tremor
11:09:04 14 Enterprises, 66 Land, or Zule Farms. And it's cumulative -- as
11:09:08 15 you go, it's cumulative, strictly solely deposits.

11:09:11 16 Q. When you say cumulative, I'm basically adding, say, 1990,
11:09:16 17 1991?

11:09:17 18 A. Correct.

11:09:17 19 Q. And adding 1992 to that amount?

11:09:19 20 A. Correct.

11:09:20 21 Q. And it goes through that?

11:09:21 22 A. Correct.

11:09:21 23 Q. Does it take into account any expenses, or any deductions,
11:09:25 24 or other items that might be considered an expense?

11:09:29 25 A. It does not. This is simply gross, meaning there are no

11:09:31 1 expenses factored into this analysis.

11:09:35 2 Q. Could I have the first tab, please? And where do these come
11:09:41 3 from, these items?

11:09:42 4 A. That's the cumulative or the joint earnings from the Social
11:09:46 5 Security statements for Mr. Trevino and his wife.

11:09:49 6 Q. And that was the 1990, 1991 and 1992, correct?

11:09:56 7 A. Correct. So the way to read this is in 1990, jointly, Mr.
11:10:02 8 Trevino and his wife had wages of \$3,178. In 1991, they jointly
11:10:10 9 had \$16,351. And in 1992, they jointly had \$21,388.

11:10:29 10 Q. I'll give you a second. Stay right there.

11:10:33 11 All right. So this line here that runs along is just
11:10:36 12 simply adding up the wages that are recorded by the Social
11:10:41 13 Security Administration to that point, December-November of 2009?

11:10:46 14 A. Well, up to when I have the bank records, which was in late
11:10:49 15 2007. So from 1990 up through at least 2006, that's coming off
11:10:55 16 the Social Security statements.

11:10:58 17 Q. And then, from there, it comes from the bank records?

11:11:01 18 A. From deposits to the bank accounts.

11:11:04 19 Q. Okay. So what does this line here represent in terms of
11:11:07 20 your analysis?

11:11:08 21 A. That line is when Tremor Enterprises was formed on November
11:11:12 22 30th of 2009.

11:11:14 23 Q. Next, please. So this is a 20-year time span from here,
11:11:21 24 right?

11:11:21 25 A. Right. Just short of a month. So from 1990 through the end

11:11:25 1 of November 2009, you could see cumulatively Mr. Trevino and his
11:11:30 2 wife earned just under \$500,000 in 20 years.

11:11:36 3 Q. So that's the amount right there, that's the total they made
11:11:40 4 over the 20 years previous?

11:11:42 5 A. No. So in --

11:11:44 6 Q. Okay.

11:11:45 7 A. So the \$441,85, that's the deposit from the winnings of
11:11:51 8 Tempting Dash. So within one month essentially, they doubled the
11:11:56 9 amount of money that was deposited into their account. They
11:11:59 10 doubled their cumulative earnings in 20 years.

11:12:03 11 Q. Next, please. So what year is this?

11:12:06 12 A. This is for 2010 and this consists of any deposits to Mr.
11:12:11 13 Trevino's personal account or at the time, the Tremor account,
11:12:16 14 regardless of source, and that was \$1.1 million. So, again, they
11:12:21 15 double their earnings in a year.

11:12:24 16 Q. Next, please. This is 2011?

11:12:27 17 A. 2011. Again, any and all deposits, regardless of source, to
11:12:32 18 the personal accounts or the business accounts related to Mr.
11:12:36 19 Trevino. They more than doubled the money coming through their
11:12:39 20 accounts, the cash flow.

11:12:40 21 Q. From the previous year?

11:12:42 22 A. Right.

11:12:42 23 Q. Next, please. This, sir?

11:12:47 24 A. Again, \$1.7 million flowing through the account. The other
11:12:51 25 thing that's important to point out here, it's \$6 million

11:12:55 1 cumulatively. It doesn't mean they've got \$6 million in their
11:12:57 2 account. That's just the cumulative amount that they've made
11:13:01 3 from 1990 that was deposited into the account.

11:13:05 4 Q. Next, please.

11:13:07 5 A. And that's in a 30-month time period.

11:13:12 6 Q. I just want to get on this before I go to the next portion
11:13:15 7 of that chart.

11:13:16 8 So these right here, 20 years, correct?

11:13:18 9 A. That's correct.

11:13:19 10 Q. And 30 months?

11:13:20 11 A. Thirty months.

11:13:21 12 Q. Here?

11:13:22 13 A. That's 30 months representing from when Tremor Enterprises
11:13:25 14 was formed in November of '09 to the end of my bank records,
11:13:31 15 which is the end of April 2012.

11:13:33 16 Q. So what does this summary chart up here state?

11:13:37 17 A. Essentially it summarizes the chart below and you can read
11:13:41 18 it by looking at it. So from 1990 to 2009, the end of November
11:13:45 19 2009, the cumulative amount of earnings or deposits to Mr.
11:13:50 20 Trevino and his wife were \$452,359, and if you average that over
11:13:57 21 20 years, that averages about \$22,000 a year. From December '09
11:14:03 22 to June of 2012, it was \$5.4 million cash flow through their
11:14:09 23 account, average that over 30 months, two-and-a-half years,
11:14:14 24 that's \$2.1 million of cash flow.

11:14:18 25 Q. And, sir, did you conduct an analysis to determine the

11:14:21 1 percentage change?

11:14:22 2 A. I did.

11:14:25 3 Q. What was your results from that?

11:14:28 4 A. That's 9,518 percent increase in 30 months from 20 years.

11:14:36 5 Q. And, sir, is it your opinion that based on the analysis of

11:14:39 6 the Trevino account, it's consistent with the other aspects of

11:14:41 7 this investigation?

11:14:42 8 A. That's correct.

11:14:43 9 Q. May I have one moment, your Honor? Your Honor, I'll pass

11:14:48 10 the witness.

11:14:51 11 MS. WILLIAMS: Your Honor, do you have objection if we

11:14:52 12 switch order of cross in connection with the order that the --

11:14:56 13 THE COURT: No. As long as we keep going around so I

11:15:03 14 don't get confused. All right.

11:15:18 15 MR. SANCHEZ: Your Honor, before -- can we get the

11:15:21 16 lights? Before we start, there are some business records the

11:15:28 17 witness has already discussed, and the government doesn't have an

11:15:31 18 objection if we introduce those records now, which we will

11:15:35 19 mention during the cross.

11:15:37 20 THE COURT: All right. Give me the number.

11:15:40 21 MR. SANCHEZ: Are we up to Colorado 5?

11:15:54 22 THE CLERK: Let me get that list. I think we're up

11:16:00 23 to --

11:16:01 24 THE COURT: I've got Colorado 6, 6A and 6B.

11:16:05 25 THE CLERK: Should be 7.

11:16:06 1 MR. SANCHEZ: Colorado 7.

11:16:08 2 THE CLERK: I gave you a list.

11:16:31 3 MR. SANCHEZ: So, your Honor, we're introducing
11:16:34 4 Colorado 7, which are business records from ADT Petro Servicios.

11:16:39 5 MR. GARDNER: No objection, your Honor.

11:16:40 6 MR. SANCHEZ: And the range is from -- the Bates range
11:16:44 7 that has been placed on here is D-FC-00001, all the way up to
11:16:55 8 1567. So 1567 pages.

11:17:36 9 CROSS-EXAMINATION

11:17:38 10 BY MR. SANCHEZ:

11:17:38 11 Q. Mr. Fernald, my name is Andres Sanchez. Other than meeting
11:17:41 12 briefly a moment ago, we haven't met before?

11:17:43 13 A. Never.

11:17:43 14 Q. And you know that I represent Mr. Colorado?

11:17:45 15 A. I do now.

11:17:47 16 Q. Well, you knew.

11:17:49 17 A. I do.

11:17:49 18 Q. About an hour ago.

11:17:51 19 I provided a binder to Mr. Gardner. Have you had a
11:17:56 20 chance to review that?

11:17:58 21 A. I briefly looked through it.

11:18:00 22 Q. Okay. I'll ask you about that later.

11:18:02 23 A. Okay.

11:18:02 24 Q. I just wanted to make sure you still had it so we don't have
11:18:05 25 to track it down.

11:18:07 1 You talked a little bit -- can you put up 404B? So
11:18:22 2 this is your summary of your analysis of ADT; is that right?

11:18:27 3 A. Well, these are select transactions. Correct.

11:18:31 4 Q. Right. Okay. Yeah. It's not the total sum -- total
11:18:35 5 analysis, but it's at least the sum?

11:18:37 6 A. You wouldn't be able to read it if it was the total.

11:18:40 7 Q. Okay. And what I want to go back through, I tried to write
11:18:44 8 down different things you reviewed. But you reviewed bank
11:18:51 9 statements of statements -- primarily bank statements from here
11:18:55 10 in the United States?

11:18:55 11 A. Correct.

11:18:57 12 Q. And you reviewed financial statements and those financial
11:18:59 13 statements was financial statements that ADT submitted to UBS?

11:19:04 14 A. Correct.

11:19:05 15 Q. Witness statements and other conversations with case agents?

11:19:09 16 A. That's correct.

11:19:10 17 Q. And the -- you talked about the number of horses that on the
11:19:14 18 far right, the 121 and 42. Did you talk to the agent here in the
11:19:20 19 first row?

11:19:20 20 A. I did.

11:19:21 21 Q. Is he the one who helped go through those number of horses
11:19:24 22 with you?

11:19:24 23 A. He did.

11:19:25 24 Q. We heard him testify yesterday that as far as horses
11:19:31 25 maintained by Colorado, the horse -- the documents that he

11:19:35 1 reviewed were just the documents regarding horses here in the
11:19:41 2 United States. He didn't look at vet bills in Mexico. He didn't
11:19:46 3 look at race payments in Mexico. He didn't look at boarding fees
11:19:48 4 in Mexico. So that number would be the number of horses
11:19:51 5 maintained here in the United States?

11:19:53 6 A. I got that number from Agent Schutt. Correct.

11:19:57 7 Q. Okay.

11:19:58 8 A. I don't know what it consists of.

11:19:59 9 Q. All right. Then you also briefly went through the three
11:20:03 10 sources that you attempted to get records from in Mexico, right?

11:20:08 11 A. Correct.

11:20:09 12 Q. You said Fin-something?

11:20:10 13 A. FinCEN.

11:20:12 14 Q. FinCEN?

11:20:12 15 A. FinCEN is a financial crimes center.

11:20:16 16 Q. Okay. You also checked with the attaché for the IRS down in
11:20:23 17 Mexico City?

11:20:23 18 A. Correct.

11:20:24 19 Q. And you did a formal request between the United States
11:20:30 20 government and the Mexican government?

11:20:31 21 A. That's correct.

11:20:32 22 Q. And at that time you were requesting bank records of ADT --
11:20:36 23 or what were you requesting specifically?

11:20:38 24 A. Bank records of ADT. For Francisco Colorado.

11:20:43 25 Q. And I know some records were provided to you by ADT. Did

11:20:46 1 you request those records directly from ADT? Did you ever send a
11:20:50 2 letter to ADT?

11:20:52 3 A. I never sent a letter to ADT.

11:20:54 4 Q. But ADT did provide some records to you on their own?

11:20:58 5 A. The Saturday before trial. I received some incomplete bank
11:21:02 6 records.

11:21:02 7 Q. Okay. And I want to go through those records.

11:21:05 8 So you never told ADT: This is what I'd like to look
11:21:08 9 through, or this is what I would like to see?

11:21:10 10 A. No.

11:21:12 11 Q. So you mentioned something what you would have really wanted
11:21:16 12 to see were some Pemex contracts or Pemex payment, right?

11:21:20 13 A. I'm not -- was not concerned about the contracts. Just
11:21:24 14 because you got a contract doesn't mean you've got money.

11:21:26 15 Q. Right. So I guess what you would have been interested to
11:21:28 16 see are Pemex payments to ADT?

11:21:31 17 A. I saw what I wanted to see was the cash available to Mr.
11:21:35 18 Colorado.

11:21:36 19 Q. And where did you see that?

11:21:37 20 A. On the financial statements.

11:21:38 21 Q. Okay. So you just relied on those financial statements?

11:21:41 22 A. That's the amount of money that Mr. Colorado reported --
11:21:46 23 reportedly had through ADT.

11:21:48 24 Q. That's one of the distinctions I wanted to try to make. So
11:21:50 25 you're relying on ADT financial statements alone?

11:21:54 1 A. Okay.

11:21:55 2 Q. And not Francisco Colorado financial statements?

11:21:59 3 A. My understanding, Mr. Colorado did not maintain financial
11:22:01 4 statements.

11:22:03 5 Q. And what I'm trying to figure out -- yesterday, we heard
11:22:06 6 that Mr. Colorado had several companies besides ADT. So your
11:22:11 7 analysis of his cash flow is really just analysis of one of his
11:22:15 8 companies ADT.

11:22:18 9 A. That's correct. ADT was the entity that purchased the
11:22:21 10 horses.

11:22:22 11 Q. Right. And what you didn't do is look at MTM. You didn't
11:22:28 12 look at his real estate company. You didn't look at any other
11:22:32 13 businesses associated with Mr. Colorado.

11:22:37 14 A. I was never provided anything as related to those entities.

11:22:41 15 Q. So when you're talking about Mr. Colorado's access to cash,
11:22:46 16 it's just the access to cash that he has based on that financial
11:22:48 17 statement that was submitted to UBS that only pertains to ADT.

11:22:54 18 A. That's correct.

11:22:55 19 Q. All right. We also heard -- do you have those financial
11:22:59 20 statements?

11:23:29 21 We heard yesterday -- by the way, your training and
11:23:36 22 your experience is in accounting?

11:23:40 23 A. I'm a CPA. That's correct.

11:23:42 24 Q. And while accounting is accounting, but there's some rules
11:23:47 25 and regulations that pertain to companies doing business here in

11:23:51 1 the United States and different rules that pertain to other
11:23:54 2 companies in other countries.

11:23:58 3 A. Right.

11:24:00 4 Q. We heard yesterday that one of the issues that when
11:24:15 5 Mr. Colorado was at least exploring the idea of selling ADT, one
11:24:19 6 of the issues was -- is that the firm that valued his company at
11:24:24 7 \$70 to \$90 million, they said he was having expenses, his own
11:24:31 8 personal expenses showing up as ADT expenses. Did you hear that
11:24:36 9 previously?

11:24:37 10 A. I don't know how he accounted for personal expenses in ADT,
11:24:43 11 if he did at all. I don't know.

11:24:44 12 Q. And what I'm trying to figure out is when you're looking at
11:24:47 13 the expenses here and you're looking at the income and you're
11:24:49 14 saying that it's just breaking even, were you aware that within
11:24:54 15 those ADT expenses were some of his personal expenses?

11:24:58 16 A. I understood that Mr. Colorado commingled personal and
11:25:02 17 business. Correct.

11:25:03 18 Q. So some of those horse purchases were actually listed in his
11:25:10 19 ADT records as ADT expenses. Did you understand that?

11:25:13 20 A. No.

11:25:14 21 Q. You didn't?

11:25:14 22 A. I don't know that -- I don't know if they were. And that's
11:25:18 23 the balance sheet, that's not going to have the expenses on
11:25:20 24 there.

11:25:21 25 Q. Okay. I'm sorry. Is this where it talks about the

11:25:23 1 expenses?

11:25:24 2 A. Yes.

11:25:24 3 Q. This one?

11:25:25 4 A. Yes.

11:25:25 5 Q. Okay. These are actually your copies?

11:25:38 6 A. Those are just my copies. Correct.

11:25:54 7 Q. So I want to make this -- if I've already gone over this, I
11:25:58 8 apologize, but I just want to make sure I understand it.

11:26:00 9 Your request through those three sources for
11:26:04 10 information down in Mexico were only for ADT records. You didn't
11:26:07 11 request payments from Pemex -- or request information directly
11:26:12 12 from Pemex regarding payments to ADT, did you?

11:26:17 13 A. I believe that was included in the general request, any and
11:26:19 14 all transactions or payments from -- to or from Mr. Colorado, or
11:26:24 15 ADT, or any other entities that he's related to.

11:26:27 16 Q. And I guess maybe --

11:26:29 17 A. It's pretty broad. It should have covered everything.

11:26:31 18 Q. So you're requesting the government to give you -- to ask
11:26:35 19 Pemex -- or you're requesting the government to ask banks in
11:26:38 20 Mexico? What is the request, actually?

11:26:41 21 A. I don't understand your question.

11:26:45 22 Q. Did you request information from banks, or did you request
11:26:49 23 information from Pemex directly?

11:26:51 24 A. The request was through the government of Mexico.

11:26:54 25 Q. So you're asking the government to request information from

11:26:57 1 banks or information from Pemex?

11:26:59 2 A. However they can obtain the information.

11:27:01 3 Q. So you didn't give them specifics?

11:27:03 4 A. I'm not going to tell the government in Mexico how they
11:27:06 5 needed to obtain the information.

11:27:11 6 Q. So you didn't give them any direction as to what records you
11:27:15 7 want, whether you want bank records or Pemex?

11:27:17 8 A. Well, certainly there's a specific request for bank records
11:27:21 9 or -- I mean, I don't recall exactly what was in it.

11:27:25 10 Q. Do you have those?

11:27:26 11 A. I don't have them with me. No.

11:27:28 12 Q. So when you reviewed the bank statements, you're just -- you
11:27:36 13 focused a lot on the bank statements that are here in the U.S.,
11:27:39 14 but you discount the bank statements from Mexico? Is that a fair
11:27:44 15 statement?

11:27:44 16 A. I didn't discount them. I didn't have them until the
11:27:46 17 Saturday before trial.

11:27:47 18 Q. And did you analyze those?

11:27:49 19 A. Didn't have time to analyze them, sir. No. They were in
11:27:53 20 Spanish. They were incomplete and the activity --

11:27:57 21 Q. Let's go over that. What do you mean by incomplete?

11:27:59 22 A. The activity in the bank statements should have been
11:28:01 23 reflected in the financial statements. So I didn't really need
11:28:05 24 to analyze the bank statements of ADT or Mr. Colorado. They
11:28:10 25 should have been reflected in the financial statements.

11:28:12 1 THE COURT: Wait now, let's -- you've been on the stand
11:28:15 2 before. You wait for a question.

11:28:16 3 THE WITNESS: Yes, sir.

11:28:17 4 THE COURT: And just answer. Now you've been at a
11:28:21 5 lectern before. You wait for the answer and then, you ask the
11:28:23 6 questions.

11:28:25 7 MR. SANCHEZ: Yes, your Honor.

11:28:55 8 Q. (BY MR. SANCHEZ) So what was incomplete about the records?

11:29:00 9 A. They were just bank statements.

11:29:02 10 Q. Okay.

11:29:02 11 A. There was no checks or item of source of deposits. I don't
11:29:06 12 know where the expenses were paid to. It's just a bank statement
11:29:10 13 in Spanish.

11:29:10 14 Q. Okay.

11:29:13 15 A. I don't speak Spanish.

11:29:13 16 Q. We'll get to that in a minute. But when you receive a bank
11:29:18 17 statement, sometimes it includes the checks and sometimes it
11:29:24 18 doesn't. Is that fair?

11:29:25 19 A. Sometimes.

11:29:26 20 Q. And if you need to request the checks or if you have to get
11:29:29 21 the checks, you have to go to the bank to ask for the checks?

11:29:32 22 A. That's correct.

11:29:33 23 Q. I want to talk a little bit about this \$2 million from UBS
11:29:45 24 to Extreme.

11:29:46 25 A. Okay.

11:29:47 1 Q. Do you know that Extreme -- by the way, do you know if
11:29:52 2 Extreme's a company in Canada?
11:29:54 3 A. It's my understanding.
11:29:55 4 Q. That's your understanding? And do you know the surroundings
11:29:59 5 or the information -- I guess information's not the right word.
11:30:05 6 Do you know the full contract or negotiations between ADT,
11:30:12 7 Extreme and HSBC?
11:30:16 8 A. I don't.
11:30:16 9 Q. So the only thing you have at this time, this is just from
11:30:20 10 the UBS records?
11:30:21 11 A. Correct.
11:30:22 12 Q. These payments here from ADT to Compass.
11:30:51 13 A. Okay.
11:30:53 14 Q. What month were those?
11:31:01 15 A. August.
11:31:05 16 Q. August of?
11:31:06 17 A. 2010.
11:31:09 18 Q. And those particular ones that you have here, was that what
11:31:15 19 funded this particular check?
11:31:20 20 A. That's correct.
11:31:21 21 Q. So the moneys coming from ADT to a Compass account and then,
11:31:27 22 from the Compass?
11:31:29 23 A. No. It's coming from ADT to Compass.
11:31:31 24 Q. Yeah. I'm sorry.
11:31:33 25 A. Correct.

11:31:33 1 Q. That's what I meant to say. From ADT accounts in Mexico to
11:31:36 2 Compass?

11:31:37 3 A. That's correct.

11:31:38 4 Q. Here in the United States?

11:31:39 5 A. That's correct.

11:31:40 6 Q. And then, checks written from Compass to Ruidoso?

11:31:48 7 A. That's correct.

11:31:52 8 Q. That binder we talked about.

11:31:53 9 A. Yes.

11:31:54 10 Q. Let me introduce it. At this time, your Honor, I'd move to
11:32:14 11 introduce Defendant's Exhibit 8.

11:32:18 12 MR. GARDNER: No objection to Colorado 8, your Honor.

11:32:21 13 MR. SANCHEZ: Sorry. Colorado.

11:32:24 14 THE COURT: It's received.

11:32:26 15 Q. (BY MR. SANCHEZ) So were you able to understand at least
11:32:33 16 some idea of this binder, this is the Ruidoso check?

11:32:39 17 A. Okay.

11:32:40 18 Q. Right? This is the Compass records that describe that
11:32:48 19 check?

11:32:48 20 A. Correct.

11:32:50 21 Q. These are Monex records that show where the money left Monex
11:32:56 22 and came to Compass?

11:32:57 23 A. Okay.

11:32:58 24 Q. And by the way, you reviewed this this morning, right?

11:33:00 25 A. I just got this this morning. Correct.

11:33:04 1 Q. Right. But these records you've had for about ten days?

11:33:08 2 A. About the Saturday before the trial.

11:33:10 3 Q. Twelve days?

11:33:11 4 A. Right. There were about 1,500 pages.

11:33:13 5 Q. And then, these records, if you can see this, these are

11:33:18 6 Bancomer BBVA records that are going to the Monex account.

11:33:25 7 A. I don't know that for sure.

11:33:26 8 Q. Okay. What I want to do is I want to go through it. It's

11:33:49 9 hard to read, but you'll agree with me that that's the check that

11:33:57 10 Ruidoso received that you have on your summary chart, right?

11:34:01 11 A. I believe that's actually the first check out of the

11:34:04 12 account. Check 101. Correct.

11:34:12 13 Q. And that's 14160 Bates stamp, right?

11:34:18 14 A. Okay.

11:34:19 15 Q. Will you agree with me that these bank statements and other

11:34:44 16 associated documents are the bank statements that correlate with

11:34:48 17 the check that was sent to Ruidoso?

11:34:52 18 A. That's correct. And that bank statement, I included that in

11:34:56 19 my analysis of Mr. Colorado's financial wherewithal. Correct.

11:34:59 20 Q. And so, this is a bank statement starting in July 16th of

11:35:05 21 2010?

11:35:05 22 A. Correct.

11:35:08 23 Q. Going to August 16, 2010?

11:35:09 24 A. Okay.

11:35:10 25 Q. And there happens to be activity right on July -- or August

11:35:15 1 16 or August 17, correct?

11:35:16 2 A. Correct.

11:35:17 3 Q. So there's also August 17 through September 15.

11:35:24 4 A. Okay.

11:35:25 5 Q. And that statement here includes the check?

11:35:33 6 A. That's when the check cleared the account. Correct.

11:35:46 7 Q. So there's one part of the wire, 500,000; is that right?

11:35:52 8 A. That's correct.

11:35:53 9 Q. And you agree -- and you have it on your chart -- that's

11:35:56 10 coming from ADT and Petro Servicios?

11:36:01 11 A. Correct.

11:36:02 12 Q. Two more wires, right?

11:36:05 13 A. Correct.

11:36:09 14 Q. And these pages here, is this the wire information?

11:36:26 15 A. That's correct. That's commonly referred to as the wire

11:36:31 16 advice.

11:36:31 17 Q. And based on this record, coupled with the Monex records,

11:36:41 18 can you see that the money from ADT came from the Monex account?

11:36:47 19 A. Point it out to me.

11:36:48 20 Q. I'll show you this.

11:36:49 21 A. I agree it came from the ADT. I don't see the Monex. It

11:36:54 22 went through bank of New York City as the intermediary.

11:37:09 23 Q. I've now pulled out the Monex account. Do you see that?

11:37:14 24 A. Okay.

11:37:23 25 Q. This is -- you agree with me that's August 16, 2010?

11:37:29 1 A. I agree.

11:37:29 2 Q. 500,000 going to Compass Bank?

11:37:32 3 A. I do.

11:37:35 4 Q. That account number?

11:37:36 5 A. Okay.

11:37:43 6 Q. That account number?

11:37:44 7 A. Yes, sir.

11:37:45 8 Q. So do those match up?

11:37:47 9 A. Yes, sir.

11:37:48 10 Q. Okay. So from these Monex records, you can see that the ADT

11:37:57 11 money left the Monex account before it ever came into the BBVA

11:38:14 12 Compass account, okay?

11:38:15 13 A. Okay.

11:38:16 14 Q. I'm asking, is that correct? Can you see that?

11:38:20 15 A. I can see that.

11:38:22 16 Q. And to save time, instead of going through the three wires,

11:38:41 17 that's one?

11:38:41 18 A. So there is the one you just showed me, 500.

11:38:45 19 Q. There's another.

11:38:49 20 A. This is the Monex.

11:38:52 21 Q. I'll get to that in a second. That's the exchange. Another

11:38:56 22 500 on the 17th.

11:39:01 23 A. Okay.

11:39:11 24 Q. So can we agree that all three wires that went into the

11:39:17 25 Compass account here in the United States came from this Monex

11:39:25 1 account?

11:39:25 2 A. Yes.

11:39:28 3 Q. And it's an ADT account?

11:39:30 4 A. Okay.

11:39:31 5 Q. Right?

11:39:32 6 A. Yes.

11:39:32 7 Q. Now, in each one of those -- are you familiar with this?

11:39:47 8 A. This is the exchange.

11:39:48 9 Q. Right. So he would be buying \$500,000 for that amount in

11:39:52 10 pesos?

11:39:52 11 A. Pesos.

11:39:54 12 Q. And there's one for each wire?

11:39:55 13 A. Right.

11:40:00 14 Q. You'll agree before each wire at Monex, ADT has to buy --

11:40:15 15 using pesos, has to buy dollars to send to?

11:40:24 16 A. I agree.

11:40:24 17 Q. The bank account? Do you agree that this is an incoming

11:40:58 18 account, 330 million pesos? Do you see that coming from --

11:41:03 19 MR. GARDNER: I'm sorry, your Honor, I can't hear the

11:41:05 20 question.

11:41:07 21 Q. (BY MR. SANCHEZ) Just look at that and make sure you're

11:41:09 22 comfortable with that document before I ask you questions.

11:41:17 23 A. You're going to have to help me translate. I don't -- what

11:41:20 24 is this purported to be? Thirty pesos?

11:41:23 25 Q. Looks like it's 30 million pesos coming from?

11:41:26 1 A. Is this coming into the Bancomer or --

11:41:29 2 Q. That's the sending bank?

11:41:31 3 A. The sending bank will be deposited into where? To Monex?

11:41:36 4 Okay.

11:41:37 5 Q. For right now, you'll agree?

11:41:38 6 A. Okay. Correct.

11:41:39 7 Q. So it looks like on August 16th, there's 30 million pesos

11:41:52 8 coming from Bancomer?

11:41:54 9 A. Okay.

11:41:56 10 Q. And before we get too far, do you know what Monex does?

11:42:06 11 A. No.

11:42:07 12 Q. What is their specialty? Do you know that Monex is a bank

11:42:10 13 in Mexico that specializes in sending money to foreign countries?

11:42:15 14 A. I didn't know that.

11:42:16 15 Q. Changing and sending money to foreign countries?

11:42:19 16 A. I didn't know that.

11:42:20 17 Q. Okay. So this is August 16, 2010?

11:42:34 18 A. Correct.

11:42:46 19 Q. Will you agree with me that this is a BBVA account from ADT

11:43:08 20 Petro Servicios?

11:43:08 21 A. Yes.

11:43:09 22 Q. And it's -- I understand the date is not what we're used to,

11:43:15 23 but you agree that this is August 1 through August 31, 2010?

11:43:19 24 A. Correct.

11:43:20 25 Q. And can you see here where the money is going to Monex? Can

11:44:05 1 you see that?

11:44:05 2 A. I see 30 million.

11:44:08 3 Q. Thirty-million pesos going to Monex?

11:44:10 4 A. Pesos. Okay.

11:44:11 5 Q. And that corresponds with the Monex document we just saw

11:44:16 6 where 30 million was coming from a Bancomer account?

11:44:20 7 A. Okay.

11:44:21 8 Q. Do you agree with that?

11:44:22 9 A. I agree.

11:44:27 10 Q. So did you do any analysis to determine what was the source

11:44:35 11 of these 30 million pesos?

11:44:37 12 A. No.

11:44:42 13 Q. And, again, included in Colorado 8 -- I'll do this. This is

11:45:16 14 part of that binder. This is the month before?

11:45:27 15 A. Okay.

11:45:28 16 Q. Is that --

11:45:29 17 A. It's July of 2010.

11:45:59 18 Q. So the month before August, do you see that payment coming

11:46:11 19 into the account?

11:46:12 20 A. I do.

11:46:13 21 Q. Do you know how much that is?

11:46:16 22 A. I don't know off the top of my head.

11:46:18 23 Q. Well, this is in pesos, right?

11:46:20 24 A. I understand that.

11:46:21 25 Q. So it's 153,501,724 pesos?

11:46:30 1 A. Okay.

11:46:32 2 Q. And 30 million pesos was sent to Monex and then, sent on to

11:46:42 3 Compass?

11:46:43 4 A. Okay.

11:46:44 5 Q. So this is -- and the 30 million equaled out to around \$2

11:46:50 6 million, right?

11:46:51 7 A. Around there.

11:46:52 8 Q. So at least at this time, this appears to be around \$10

11:46:57 9 million payment?

11:46:57 10 A. That particular payment, correct.

11:47:00 11 Q. Do you know whether this payment -- this \$10 million payment

11:47:09 12 is from Pemex?

11:47:10 13 A. I have no idea.

11:47:21 14 Q. Did you ask anyone?

11:47:25 15 A. Did I ask anyone?

11:47:26 16 Q. Did you ask anyone whether that is a payment from Pemex?

11:47:30 17 A. No.

11:47:34 18 Q. Continuing on July 22nd, there's another payment for 117

11:47:45 19 million. Do you see that?

11:47:46 20 A. I do.

11:47:47 21 Q. That would be less than 10 million but maybe 8 million or

11:47:51 22 so?

11:47:51 23 A. Okay.

11:48:01 24 Q. So when you were doing your analysis of ADT -- let me back

11:48:16 25 up.

11:48:19 1 Here, you've got Pemex to UBS, Pemex to UBS, Pemex to
11:48:39 2 UBS, right?
11:48:39 3 A. Correct.
11:48:40 4 Q. What date is that first one, 10-12?
11:49:28 5 A. Yes, sir.
11:49:29 6 Q. That can't be right. Oh, 10-12-11?
11:49:37 7 A. Yes, sir.
11:49:37 8 Q. Yeah, I was -- may I see the other one? I'm sorry.
11:50:20 9 A. I'm looking at my chart and that should be 12-13, I think.
11:50:25 10 That's a mistake.
11:50:26 11 Q. All right.
11:50:26 12 A. On the date.
11:50:27 13 Q. So December 13?
11:50:29 14 A. Right.
11:50:29 15 Q. Of 2011?
11:50:31 16 A. '11.
11:50:37 17 Q. You're familiar with this document?
11:50:59 18 A. I've seen that, yes.
11:51:00 19 Q. That's the source of that dot?
11:51:03 20 A. Correct.
11:51:06 21 Q. And that all we have here is that it's coming from Banamex?
11:51:10 22 A. Correct.
11:51:11 23 Q. Doesn't necessarily say Pemex?
11:51:15 24 A. No.
11:51:15 25 Q. But you were able to talk to Ricardo Barrera and he told you

11:51:19 1 that was from Pemex?

11:51:20 2 A. That's correct.

11:51:21 3 Q. So I guess my question is, did you ever ask anyone about any
11:51:26 4 of the other wires from Bancomer to determine whether they were
11:51:38 5 from Pemex?

11:51:39 6 A. I didn't have to.

11:51:41 7 Q. It's just not necessary in your analysis?

11:51:43 8 A. No, because those transactions that you've reviewed, those
11:51:46 9 were all reflected in the financial statements that I used.

11:51:48 10 Q. Well, and I guess that's --

11:51:50 11 A. They've been accounted for in the financial statements.

11:51:53 12 Okay.

11:51:54 13 Q. So they should have been reflected in the financial
11:51:56 14 statements is what you're saying?

11:51:57 15 A. I would hope they would be.

11:51:59 16 Q. You would hope they would be reflected in financial
11:52:02 17 statements.

11:52:02 18 A. That's correct.

11:52:04 19 Q. And you don't know exactly what the correlation is between
11:52:09 20 ADT and MTM, TrasCo, or Mr. Colorado's real estate business,
11:52:17 21 correct?

11:52:17 22 A. Can you restate that? I understand MTM was formed as a
11:52:23 23 result of the suspension by --

11:52:24 24 Q. Hold on a second.

11:52:25 25 A. -- ADT.

11:52:26 1 Q. Before we get into that information, what I'm asking you --
11:52:29 2 because yesterday, we heard about several companies.
11:52:32 3 A. Okay.
11:52:32 4 Q. ADT, MTM, TrasCo, and a real estate company?
11:52:39 5 A. Okay.
11:52:41 6 Q. Do you know the financial statements or the financial
11:52:50 7 ability of those companies and how they relate to ADT?
11:52:54 8 A. No. I recall in the information I got from UBS, TrasCo had
11:52:58 9 a loss 2008 or 2009, and the money was de minimis.
11:53:06 10 Q. What about MTM?
11:53:08 11 A. I never saw any financial records from MTM.
11:53:10 12 Q. What about the real estate company?
11:53:12 13 A. I never saw any financial statements from the real estate
11:53:15 14 company.
11:53:15 15 Q. Did you ever ask about the tax advantages that come with
11:53:23 16 describing the income and breaking it out between those
11:53:27 17 companies?
11:53:28 18 A. No.
11:53:29 19 Q. So you're relying solely on what you believe should be in
11:53:32 20 the ADT financial records and those three pages, those financial
11:53:37 21 statements?
11:53:38 22 A. That's correct.
11:53:38 23 Q. And when you talked about Mr. Trevino, you said you didn't
11:53:44 24 look at the IRS or the tax forms. You went to the underlying
11:53:47 25 documents.

11:53:48 1 A. Correct.

11:53:49 2 Q. And here, instead of going to the underlying documents that
11:53:53 3 support the financial statements, you just looked at the
11:53:55 4 financial statements?

11:53:56 5 A. I didn't have the underlying documents.

11:53:58 6 Q. Now that you have the underlying documents, you discounted
11:54:02 7 those?

11:54:02 8 A. Sir, again, I got those on Saturday before, 1,500 pages.

11:54:07 9 And, again, those transactions should have been accounted for in
11:54:10 10 the financial statements.

11:54:11 11 Q. They should have been?

11:54:13 12 A. I would hope that they would be.

11:54:14 13 Q. You would hope?

11:54:15 14 A. Correct.

11:54:16 15 Q. But you're not an expert in Mexican law.

11:54:20 16 A. No.

11:54:21 17 Q. You don't know anything about MTM?

11:54:26 18 A. I know something about MTM.

11:54:28 19 Q. You don't know about their financial statements?

11:54:30 20 A. No.

11:54:31 21 Q. You don't know about the financial statements of the real
11:54:34 22 estate company?

11:54:36 23 A. Again, I've seen the financial statements for the real
11:54:38 24 estate company, and I remember seeing a loss in one year.

11:54:46 25 Q. Could I have one moment, your Honor? Pass the witness.

11:55:10 1 THE COURT: And with that, you get lunch. Remember the
11:55:14 2 instructions. We'll start at 1:20. 1:20.
11:55:52 3 (Jury not present.)
11:55:54 4 THE COURT: We're in recess till 1:20.
12:03:26 5 (Lunch recess.)
13:24:43 6 (Jury present.)
13:26:19 7 THE COURT: I'm tempted to ask you if you enjoyed the
13:26:25 8 barbecue, but I will not. I could hear, even though I'm not
13:26:28 9 permitted to participate.
13:26:31 10 But during the barbecue, did anybody attempt to talk to
13:26:34 11 you about this case?
13:26:35 12 JURORS: No.
13:26:36 13 THE COURT: Did you talk to anybody about the case?
13:26:38 14 JURORS: No.
13:26:39 15 THE COURT: And have you learned anything at all about
13:26:41 16 the case, outside the presence of one another in this courtroom?
13:26:44 17 JURORS: No.
13:26:44 18 THE COURT: All right. Thank you. Show negative
13:26:47 19 responses to all questions by all jurors.
13:26:49 20 Mr. Womack. Do you have any questions?
13:26:53 21 MR. WOMACK: No, sir.
13:26:54 22 THE COURT: Okay. Mr. Esper?
13:26:56 23 MR. ESPER: I have none, your Honor.
13:26:57 24 THE COURT: Mr. Mayr.
13:26:59 25 MR. MAYR: Neither do I.

13:27:00 1 THE COURT: Ms. Williams?

13:27:02 2 MS. WILLIAMS: Yes, your Honor.

13:27:03 3 CROSS-EXAMINATION

13:27:03 4 BY MS. WILLIAMS:

13:27:09 5 Q. Special Agent Fernald, my name is Christie Williams and I
13:27:11 6 represent Jose Trevino.

13:27:12 7 A. Okay.

13:27:13 8 Q. We don't know each other?

13:27:14 9 A. No.

13:27:14 10 Q. Have you ever heard the saying, you see what you're looking
13:27:21 11 for?

13:27:21 12 A. No.

13:27:23 13 Q. You're not saying, are you, that paying for something in
13:27:27 14 cash is illegal?

13:27:29 15 A. Not in and of itself.

13:27:32 16 Q. I'm sorry?

13:27:32 17 A. Not in and of itself.

13:27:34 18 Q. If I want to pay for something in cash, that's totally fine?

13:27:39 19 A. Sure.

13:27:40 20 Q. The IRS doesn't have a problem with that inherently?

13:27:44 21 A. Not in and of itself, no.

13:27:47 22 Q. Would you say that again? Not in and of itself?

13:27:49 23 A. Not in and of itself. Correct.

13:27:51 24 Q. Have you ever heard of Dave Ramsey?

13:27:55 25 A. Never heard of him.

13:28:01 1 Q. He's a financial advisor. Part of his schtick, if you will,
13:28:08 2 is that you pay for things in cash.

13:28:11 3 A. Okay.

13:28:11 4 Q. And that you save money that way.

13:28:13 5 A. Okay.

13:28:14 6 Q. You don't have a problem with that, do you?

13:28:16 7 A. No.

13:28:17 8 Q. Did you see any evidence in your analysis the Trevinos --
13:28:26 9 Jose Trevino's financial situation, did you see any evidence of a
13:28:30 10 major credit card?

13:28:32 11 A. Not that I recall.

13:28:33 12 Q. No Visa?

13:28:35 13 A. I think there were some payments to a credit card out of the
13:28:39 14 account.

13:28:40 15 Q. There's some payments to a department store credit card?

13:28:43 16 A. Right.

13:28:43 17 Q. And there weren't any payments that I could find. And
13:28:45 18 correct me if I'm wrong -- a Visa, Mastercard, American Express,
13:28:48 19 the major credit card companies?

13:28:49 20 A. Correct.

13:28:49 21 Q. You don't have any reason to disagree with me, do you?

13:28:51 22 A. No.

13:28:52 23 Q. So I want to talk to you -- well, one more question before I
13:28:57 24 tell you where I'm going.

13:28:58 25 You didn't see evidence of anything extravagant,

13:29:03 1 extravagant vacations, anything of that nature, in analyzing Jose
13:29:09 2 Trevino's bank accounts, did you?

13:29:11 3 A. I did not. No.

13:29:13 4 Q. It appeared that the Trevinos lived frugally?

13:29:19 5 A. They had to.

13:29:20 6 Q. And even after they get in the horse business and they win
13:29:25 7 these big races, other than horse expenses, you still don't see
13:29:30 8 any extravagant purchases, do you?

13:29:35 9 A. As far as extravagant purchases for what?

13:29:38 10 Q. Vacations luxury cars, jewelry, that sort of thing?

13:29:42 11 A. Not that I recall.

13:29:43 12 Q. Now, I want to kind of split this into two parts. So I want
13:29:47 13 to let you know where I'm going so we understand each other.

13:29:50 14 First, I want to ask you about this Tempting Dash
13:29:53 15 money. Fair enough?

13:29:55 16 A. Okay.

13:29:56 17 Q. And then, I want to talk to you about the wedding.

13:29:58 18 A. Okay.

13:29:58 19 Q. Okay. So we keep those two things separate?

13:30:01 20 A. Sure.

13:30:02 21 Q. You showed the jury this chart and you told them that you
13:30:08 22 used the Social Security statements as the basis, on the bottom
13:30:14 23 of the chart, for how much money was coming into the Trevino
13:30:17 24 household.

13:30:18 25 A. For 1990 through 2007, which is when we got the bank

13:30:24 1 records.

13:30:24 2 Q. And so, from 2007 forward, you actually used the bank
13:30:28 3 records?

13:30:28 4 A. Correct.

13:30:29 5 Q. But for 2006 backwards, back to?

13:30:35 6 A. 1990.

13:30:36 7 Q. 1990, you used these Social Security statements?

13:30:41 8 A. Correct.

13:30:43 9 Q. Because you didn't think that the tax statements -- that
13:30:45 10 they might or might not be accurate. Is that -- was that your
13:30:48 11 explanation?

13:30:49 12 A. No. That's because all we had. We don't have -- because of
13:30:53 13 the retention policies of banks, they don't keep records back to
13:30:56 14 the '90s. They keep about five years.

13:30:59 15 Q. How many years back could you have gotten tax records?

13:31:04 16 A. Tax records?

13:31:05 17 Q. Yes. Tax returns.

13:31:07 18 A. I guess since they filed them.

13:31:10 19 Q. And did you check to see how many years back Zulema and Jose
13:31:14 20 Trevino had filed a tax return?

13:31:16 21 A. No. I did not.

13:31:17 22 Q. And I thought you told the prosecutor that you didn't use
13:31:20 23 the tax return because you weren't sure that people are truthful
13:31:23 24 on their tax returns. Isn't that what you said?

13:31:24 25 A. I said people are known to lie on their tax returns.

13:31:27 1 Q. All right. So because of that, you used the Social Security
13:31:30 2 statements. That's what I was trying to get at.
13:31:32 3 A. Okay.
13:31:33 4 Q. That was your previous testimony, was it not?
13:31:35 5 A. Yes.
13:31:35 6 Q. All right. But tell the members of the jury what Social
13:31:40 7 Security statements show. Do they really show how much money a
13:31:44 8 person makes in a given year?
13:31:47 9 A. It shows the wages that they're -- that they're paid of the
13:31:51 10 wages that are paid into Social Security.
13:31:52 11 Q. Doesn't really show that either, does it? It shows --
13:31:55 12 A. I don't know what you're talking about.
13:31:56 13 Q. How much money an employer reports to the government that
13:32:01 14 they paid that person.
13:32:03 15 A. That's correct.
13:32:03 16 Q. And that's not the same thing, is it?
13:32:05 17 A. I disagree.
13:32:08 18 Q. Well, if I work as a babysitter and I make \$4,000.
13:32:18 19 A. Okay.
13:32:18 20 Q. The person who employees me may or may not report that to
13:32:21 21 the IRS, right?
13:32:22 22 A. It's your responsibility to report it. Correct.
13:32:24 23 Q. Okay. But Social Security doesn't show that. Social
13:32:28 24 Security shows what the employer reports to the government.
13:32:31 25 Isn't that true?

13:32:32 1 A. Well, now you're getting into employee-employer
13:32:35 2 relationships and self-employment. It's not that easy.
13:32:39 3 Q. Doesn't a Social Security record show what a 1099 or a W-2?
13:32:45 4 A. A Social Security statement?
13:32:46 5 Q. Yes.
13:32:47 6 A. No. Not a 1099.
13:32:51 7 Q. So if you get a 1099, does that go on your Social Security
13:32:55 8 statement?
13:32:55 9 A. Depends on who it's from and what it's for.
13:32:58 10 Q. What do you mean it depends on who it's from?
13:33:00 11 A. It's from your employer.
13:33:03 12 Q. If you get a --
13:33:03 13 A. Now, if you get a 1099, generally you're not an employee,
13:33:07 14 you're self-employed or you're independent contractor, I guess I
13:33:14 15 should say.
13:33:14 16 Q. You're an independent contractor?
13:33:15 17 A. Correct. And it's not that simple.
13:33:21 18 Q. Well, let's talk about it's not that simple.
13:33:28 19 You never saw, other than what I think you -- I can't
13:33:32 20 remember what you called it -- some sort of promotional savings
13:33:37 21 account at Bank of America, you never saw any evidence of a
13:33:39 22 savings account.
13:33:40 23 A. No.
13:33:43 24 Q. So what's significant about -- do you have that chart in
13:33:52 25 front of you?

13:33:53 1 A. I do.

13:33:53 2 Q. Is there anything significant to you with regard to the year
13:33:57 3 2001?

13:33:59 4 A. No.

13:34:01 5 Q. Do you know that that's the year that Jose Trevino became a
13:34:04 6 citizen of the United States?

13:34:06 7 A. I didn't know that.

13:34:08 8 Q. Would that affect your analysis of his potential cash flow?

13:34:15 9 A. No.

13:34:16 10 Q. Would you agree with me that a person who's a citizen of the
13:34:19 11 United States has a better chance of getting a better job than
13:34:21 12 someone who's not a citizen?

13:34:23 13 A. I wouldn't know.

13:34:26 14 Q. If you accepted that -- and I understand that you don't --
13:34:33 15 but if you accepted that as an important fact, then it would be
13:34:39 16 more important to look at the years from 2001 to 2009.

13:34:45 17 A. Okay.

13:34:46 18 Q. Right? If you accepted that.

13:34:49 19 A. Okay.

13:34:52 20 Q. And if you looked at the years 2001 to 2009, what would the
13:34:59 21 yearly average wages have been? That would go up, wouldn't it?

13:35:06 22 A. I don't know.

13:35:06 23 Q. That would go up?

13:35:07 24 A. Probably.

13:35:08 25 Q. Well, not probably. Look at the chart.

13:35:12 1 A. Okay. It would go up.

13:35:14 2 Q. Okay. If I said that it would go up to \$38,420.22, would
13:35:23 3 you argue with me? We can take the time to do the math if you
13:35:27 4 want.

13:35:27 5 A. Is that a representation of the average for those four or
13:35:30 6 five years or whatever it --

13:35:31 7 Q. That's my representation of those years.

13:35:32 8 A. I would have no reason to not believe you.

13:35:37 9 Q. Nine years?

13:35:41 10 A. Okay.

13:35:42 11 Q. Did you consider in your cash flow analysis the impact --
13:35:59 12 well, did you see any significant cash deposits into the
13:36:05 13 Trevinos' accounts, ever?

13:36:06 14 A. Not that I recall. There were some cash deposits but not
13:36:10 15 significant, however you define significant.

13:36:11 16 Q. \$200, \$300, I mean, that sort of thing?

13:36:14 17 A. Correct.

13:36:14 18 Q. Very, very occasionally but nothing -- no \$9,000 deposits,
13:36:18 19 no \$5,000 deposit, that sort of thing. Nothing significant like
13:36:21 20 that over all these years?

13:36:23 21 A. Just wages.

13:36:24 22 Q. Just wages.

13:36:34 23 Did you consider in your cash flow analysis the
13:36:38 24 possibility that Mr. or Mrs. Trevino amassed cash through saving
13:36:50 25 cash from their bank account?

13:36:54 1 A. I don't -- I don't quite follow you.

13:36:57 2 Q. If I get paid \$500 and I take my paycheck to the bank and I
13:37:02 3 keep \$100, what has happened?

13:37:09 4 A. Would you say the numbers again?

13:37:12 5 Q. Sure. I get a paycheck and it's for \$500.

13:37:15 6 A. Okay.

13:37:15 7 Q. I take it to the bank, I fill out a deposit slip, I deposit
13:37:18 8 \$400, and I take out \$100 in cash.

13:37:22 9 A. Okay.

13:37:24 10 Q. Did you consider the impact of that kind of transaction in
13:37:29 11 your cash flow analysis?

13:37:31 12 A. I had no evidence that they kept cash out.

13:37:36 13 Q. Well, let's talk about that. Did you look at their
13:37:42 14 Prosperity Bank account?

13:37:43 15 A. I did.

13:37:43 16 Q. I think -- is that the earliest bank account you found?

13:38:10 17 A. That is.

13:38:11 18 Q. Okay. And that's why I used it, because it's the first
13:38:18 19 instance, the first chance for you in doing a cash flow analysis
13:38:22 20 to consider the impact of withdrawing money from a person's bank
13:38:27 21 account. Now, that's not illegal, is it?

13:38:30 22 A. No.

13:38:32 23 Q. Do you have those records in front of you?

13:38:35 24 A. Well, I have my spreadsheet in front of me.

13:38:37 25 Q. Well, in looking at your spreadsheet, can you tell if there

13:38:41 1 were checks written for cash or cash kept out of a paycheck in a
13:38:48 2 deposit?

13:38:48 3 A. Not in this one.

13:38:51 4 Q. Because in your analysis, you didn't consider that as a
13:38:54 5 possibility. Isn't that fair?

13:38:59 6 A. No. This is -- I don't believe that to be the case because
13:39:05 7 I also have the employment files during the same time.

13:39:09 8 Q. Fair enough. But this Prosperity -- did you make this
13:39:13 9 spreadsheet?

13:39:13 10 A. I did.

13:39:14 11 Q. This Prosperity Bank account spreadsheet doesn't have any
13:39:17 12 indication of how much cash was withdrawn from their bank account
13:39:22 13 over this nine-month period, does it?

13:39:26 14 A. Well, the deposits are direct deposits, so I don't know how
13:39:29 15 you would withdraw cash out of it.

13:39:31 16 Q. Again, I'm sorry --

13:39:32 17 A. From being deposited.

13:39:33 18 Q. Some of them are direct deposits and some of them aren't.
13:39:38 19 Isn't that true?

13:39:39 20 A. I would have to look.

13:39:42 21 Q. Would you be surprised to learn that over this nine-month
13:39:47 22 period, Mr. Trevino or his wife withdrew legally, right there in
13:39:53 23 the open, over \$7,500 in cash?

13:40:00 24 A. I have no -- I don't guess I have any opinion about that. I
13:40:07 25 have no idea.

13:40:11 1 Q. Well, did you know that?

13:40:13 2 A. No.

13:40:15 3 Q. If in nine months, these citizens of the United States can
13:40:23 4 take out \$7,500 in cash, what does that do to your cash flow
13:40:28 5 analysis?

13:40:31 6 A. Nothing, because I've already accounted for that in the
13:40:40 7 original deposit.

13:40:47 8 Q. Your spreadsheet shows total deposits.

13:40:50 9 A. Okay.

13:40:50 10 Q. Right?

13:40:51 11 A. Okay.

13:40:53 12 Q. Well, I don't really know what okay means. So I'm going to
13:40:57 13 try to ask you "Yes" or "No" questions if you'll try to answer
13:41:00 14 "Yes" or "No." Is that fair?

13:41:02 15 A. Yes, ma'am.

13:41:03 16 Q. All right. Your spreadsheet shows total deposits.

13:41:07 17 A. Yes, ma'am.

13:41:08 18 Q. And it lists out some different ways that money was
13:41:12 19 deposited, but nothing in here shows -- if I have a check for
13:41:17 20 \$500 and I only deposit 400 of it and I take 100 in cash, how
13:41:21 21 much is going to show up on your --

13:41:25 22 A. Well, in that scenario, if it's a check, 400.

13:41:27 23 Q. Okay. And so, I don't want to take up a lot of this jury's
13:41:33 24 time, but over lunch, I took this Government's Exhibit 250F and I
13:41:42 25 added up all the cash that was taken out.

13:41:48 1 A. Okay.

13:41:49 2 Q. Do you want to look at it?

13:41:51 3 A. Is this the --

13:41:53 4 Q. That's the total.

13:41:54 5 A. That's not \$25,000.

13:41:56 6 Q. No. That's \$7,500, a little more than that, right?

13:42:00 7 A. I agree.

13:42:01 8 Q. All right. So if in nine months, a person could save \$7,500

13:42:11 9 in cash, how long would it take them to save \$25,000 in cash?

13:42:19 10 A. At the same rate?

13:42:21 11 Q. At the same rate.

13:42:23 12 A. A couple of years. Several years.

13:42:30 13 Q. Three-ish?

13:42:31 14 A. I agree.

13:42:34 15 Q. I'm handing you what I've marked as JT-2 and 2A, 3 and 3A,

13:43:06 16 all the way to 5 and 5A. Have you seen those documents before?

13:43:09 17 A. I have.

13:43:10 18 Q. At this time, your Honor, I would offer Exhibits JT-2, 3, 4

13:43:37 19 and 5 under Rule 902(3).

13:43:44 20 MR. GARDNER: May I see those?

13:43:46 21 MS. WILLIAMS: Uh-huh.

13:44:11 22 MR. GARDNER: Your Honor, we object to these. They're

13:44:12 23 not complete documents. All they are are bills of sales. They

13:44:16 24 don't have any property records that are behind them to indicate

13:44:18 25 property that is being sold.

13:44:23 1 THE COURT: You confused me. You said JT-3, then you
13:44:27 2 went to 2. And I don't know what --

13:44:28 3 MS. WILLIAMS: I'm sorry, Judge. It's 2, 3, 4 and 5.

13:44:32 4 THE COURT: Would you give them to Mrs. Sims, please?
13:45:30 5 The documents are in Spanish. I can't tell.

13:45:36 6 MS. WILLIAMS: These are the translations, your Honor.
13:45:38 7 They're marked.

13:46:18 8 THE COURT: Okay. Authenticity is the objection?

13:46:22 9 MR. GARDNER: Completeness, your Honor.

13:46:23 10 THE COURT: Sorry?

13:46:24 11 MR. GARDNER: We invoke the rule of completeness. We
13:46:26 12 don't believe they're complete documents since they don't reflect
13:46:28 13 the actual property being sold.

13:46:31 14 THE COURT: Without any further testimony, I'll sustain
13:46:36 15 the objection.

13:46:49 16 Q. (BY MS. WILLIAMS) All right. Let's move to the wedding.

13:47:11 17 A. Yes, ma'am.

13:47:12 18 Q. The government asked you about this payment to the Adolphus.
13:47:27 19 Remember that?

13:47:27 20 A. I do.

13:47:28 21 Q. And did -- was your opinion the same for the wedding as it
13:47:51 22 was for the Tempting Dash payment of \$25,000?

13:47:55 23 A. I saw no cash withdrawals that would equate to what was
13:47:58 24 paid.

13:47:59 25 Q. So it was --

13:48:01 1 A. Yes.

13:48:01 2 Q. It was essentially the same?

13:48:02 3 A. Yes.

13:48:03 4 Q. And, I mean, let's be real clear, not to beat a dead horse.

13:48:13 5 But it's important in this case to know whether or not Jose

13:48:19 6 Trevino could come up with this kind of cash on his own, right?

13:48:23 7 I mean, that's what we're talking about.

13:48:24 8 A. Source of funds is important.

13:48:26 9 Q. Source of funds is very important, right?

13:48:28 10 A. Correct.

13:48:29 11 Q. And so, considering all possibilities and looking at all the

13:48:32 12 bank statements that are available to you is part of what your

13:48:36 13 job is, correct?

13:48:38 14 A. It's correct.

13:48:52 15 MR. GARDNER: No objection to 6, your Honor.

13:48:59 16 Q. (BY MS. WILLIAMS) I'm going to ask you to look at

13:49:02 17 Defendant's Exhibit JT-6. What are those documents?

13:49:41 18 A. Checks.

13:49:42 19 Q. Checks from?

13:49:44 20 A. Tremor to Jose Trevino.

13:49:46 21 Q. And to also --

13:49:49 22 A. I saw one or two to Zulema.

13:49:51 23 Q. I'll offer Defendant's Exhibit JT-6.

13:49:54 24 THE COURT: Without objection, it's received.

13:49:58 25 Q. (BY MS. WILLIAMS) When were the cash payments to the

13:50:05 1 Adolphus for Alexandra Trevino's wedding reception?

13:50:14 2 A. Best of my recollection, it was April in 2012 and then, May.

13:50:20 3 Q. Let me see if I can help.

13:50:23 4 A. April and May.

13:50:27 5 Q. Of 2012?

13:50:29 6 A. That's correct.

13:50:30 7 Q. And how much of that -- I don't know how much math you can

13:50:35 8 do in your head. Hopefully more than me.

13:50:38 9 How much of that was paid in cash?

13:50:40 10 A. \$33,800.

13:50:48 11 Q. Look at the dates of the checks, if you don't mind, in

13:50:53 12 Exhibit JT-6 and identify, if you would, the earliest that, you

13:51:01 13 know, kind of the date range, the earliest date and the latest

13:51:04 14 date.

13:51:04 15 A. November 2011 through -- hopefully they're in order.

13:51:11 16 Q. Close.

13:51:11 17 A. March of 2012.

13:51:17 18 Q. So from November of 2011 to March of 2012, Jose Trevino and

13:51:26 19 Zulema Trevino wrote some checks from their company to themselves

13:51:35 20 for payroll?

13:51:36 21 A. That's correct.

13:51:36 22 Q. And maybe one or two say bonus on them?

13:51:40 23 A. That is correct.

13:51:41 24 Q. What is significant about those checks?

13:51:43 25 A. I don't know.

13:51:44 1 Q. Well, were they all deposited or were they all cashed?

13:52:01 2 A. I would have to go through the checks and look. Looks like

13:53:14 3 these were cashed.

13:53:14 4 Q. All those checks were cashed?

13:53:16 5 A. That's what it appears.

13:53:17 6 Q. Doesn't just appear that way. The bank shows all those

13:53:21 7 checks were cashed, and there's no evidence that they were

13:53:24 8 deposited in the bank, correct?

13:53:24 9 A. Well, there was some corresponding cash deposits around the

13:53:27 10 same time. Correct.

13:53:28 11 Q. And wouldn't you agree with me that the checks on Exhibit

13:53:37 12 JT-6 total more than \$33,800?

13:53:44 13 A. It's 33,800.

13:53:48 14 Q. I'm sorry?

13:53:48 15 A. It's \$33,800.

13:53:50 16 Q. They total more than \$33,800, don't they?

13:53:53 17 A. I don't know. I don't know how much they total. So you

13:54:09 18 want me to total them?

13:54:10 19 Q. Well.

13:55:10 20 A. 40,450.

13:55:12 21 Q. I don't have any further questions.

13:55:21 22 RE-DIRECT EXAMINATION

13:55:21 23 BY MR. GARDNER:

13:55:31 24 Q. Did Mr. Trevino get a number of wires from Mexico?

13:55:35 25 A. That were deposited to one of his accounts. Correct.

13:55:37 1 Q. Were you able to trace the source of those funds?

13:55:41 2 A. I was not.

13:55:43 3 Q. Is that the --

13:55:44 4 A. Well, there's a payee. Correct.

13:55:47 5 Q. A payee?

13:55:48 6 A. Payor. I'm sorry, payor.

13:55:50 7 Q. But you don't know the source of his funds, correct?

13:55:52 8 A. No.

13:55:53 9 Q. And is that the point of this exercise and your analysis to
13:55:57 10 attempt to find the source of the funds?

13:55:59 11 A. That's correct.

13:56:00 12 Q. With respect to both the Jose Trevino and the ADTs, were you
13:56:04 13 able to trace the ultimate source of the funds going into their
13:56:07 14 accounts?

13:56:08 15 A. No.

13:56:09 16 Q. So, for example, Mr. Sanchez asked about these Bancomer and
13:56:19 17 these Monex deposits into ADT accounts. Were you able to retain
13:56:25 18 the source documents that would indicate where that money was
13:56:27 19 coming from?

13:56:27 20 A. I was not.

13:56:28 21 Q. And is that why you say those records are incomplete?

13:56:30 22 A. That's correct.

13:56:31 23 Q. So you were able to obtain the source documents from the UBS
13:56:36 24 accounts for any of the deposits, correct?

13:56:37 25 A. Correct.

13:56:38 1 Q. Could I see 404B, please? Ms. Sims, could you please dim
13:56:43 2 the lights?

13:57:02 3 Special Agent Fernald, you have a number of horizontal
13:57:10 4 layers here representing different types of money flow, correct?

13:57:16 5 A. Correct.

13:57:17 6 Q. What's the usefulness in this chart in comparing those
13:57:21 7 different lines?

13:57:22 8 A. It just shows flow of money.

13:57:25 9 Q. So I could take a particular date, say, November of 2011 and
13:57:31 10 compare the flow of money?

13:57:33 11 A. At the same time, correct.

13:57:34 12 Q. At the same time, correct?

13:57:36 13 A. Correct.

13:57:37 14 Q. So I want to take November of 2011. What's going on down
13:57:41 15 here?

13:57:43 16 A. ADT suspended from bidding on Pemex contracts.

13:57:48 17 Q. And what's going on up here?

13:57:50 18 A. Mr. Colorado is purchasing horses.

13:57:52 19 Q. And where is he getting the funds to purchase those horses
13:57:55 20 from?

13:57:57 21 A. Well, there's one purchase from the Arian Jaff.

13:58:01 22 Q. So it's useful for you to start to look at the --

13:58:04 23 A. Correct.

13:58:05 24 Q. -- expenditures at any one given point?

13:58:08 25 A. Correct.

13:58:10 1 Q. Now, you earlier said on direct, you said I hope. You used
13:58:14 2 the words, "I hope his financials were correct"?

13:58:18 3 A. That's correct.

13:58:18 4 Q. Why did you say that?

13:58:19 5 A. Because if his financial statements were not correct, he
13:58:24 6 would be committing bank fraud.

13:58:26 7 Q. And why is that?

13:58:27 8 A. Those financials were supplied to UBS, a financial
13:58:32 9 institution. They're FDIC-insured to secure loans.

13:58:38 10 Q. So, in other words, you have to be truthful to the banks to
13:58:41 11 get a loan?

13:58:41 12 A. That's correct.

13:58:43 13 Q. We already heard testimony that the CAG reports show he was
13:58:46 14 commingling his personal and his business accounts.

13:58:50 15 A. That's correct.

13:58:52 16 Q. In terms of criminal offenses, what is commingling?

13:58:58 17 A. It's an element that I come across often in my white-collar
13:59:03 18 investment fraud investigations. Essentially what it is, it's
13:59:07 19 literally the mixing of moneys, one being derived from some type
13:59:13 20 of criminal activity, whether generally my investigations, it's
13:59:16 21 wire fraud, or bank fraud, or some type of fraud or
13:59:20 22 misinterpretation, or like in this case, potentially the
13:59:25 23 trafficking of narcotics and the sale of narcotics. So some type
13:59:29 24 of criminally derived moneys and they are literally mixed in with
13:59:34 25 moneys from other sources, all in an effort to give the

13:59:39 1 appearance that the money coming out of, say, a particular bank
13:59:42 2 account is legitimate.

13:59:45 3 Q. If I were to give you an example of spiking the punchbowl at
13:59:49 4 a party?

13:59:50 5 A. I think it's a great example.

13:59:51 6 Q. And how so?

13:59:52 7 A. Well, essentially, we've all been to parties whenever
13:59:58 8 there's a bowl of punch, and in that state it's all punch, and
14:00:04 9 somebody comes by and they spike it with a fifth of gin, or
14:00:08 10 whatever, at that point in time, that punchbowl is now commingled
14:00:12 11 with gin, and no matter how much more punch you put in it, every
14:00:16 12 time you take a drink, you're going to get some alcohol.

14:00:20 13 Q. Mr. Sanchez asked you if you were able to obtain any race
14:00:24 14 payments, vet bills, or boarding records from Mexico.

14:00:27 15 A. That's correct.

14:00:28 16 Q. Let's assume you did for a second.

14:00:30 17 A. Okay.

14:00:31 18 Q. Would that have decreased the amount of funds available to
14:00:36 19 Mr. Colorado-Cessa?

14:00:36 20 A. That would have been an expense.

14:00:38 21 Q. An expense. Could you scroll all the way over to the right,
14:00:42 22 please?

14:00:44 23 So if there are those expenses in Mexico, how much
14:00:48 24 money would he then have available with respect to the ability to
14:00:51 25 purchase horses?

14:00:52 1 A. It would be less.

14:00:54 2 Q. Less money available?

14:00:56 3 A. That's correct.

14:00:57 4 Q. And Mr. Sanchez asked you, did you request of ADT any
14:01:02 5 records?

14:01:04 6 A. I remember that.

14:01:05 7 Q. Okay. And did you request any records from ADT?

14:01:07 8 A. Not from ADT directly.

14:01:09 9 Q. Following the indictment in June of 2012, did ADT
14:01:13 10 voluntarily provide you any records?

14:01:15 11 A. Nothing.

14:01:16 12 Q. Did Pemex voluntarily provide you any records?

14:01:20 13 A. Nothing.

14:01:22 14 Q. And are you familiar with the accounting standards in both
14:01:25 15 the United States and Mexico?

14:01:27 16 A. Not Mexico.

14:01:28 17 Q. But with respect to the accounting standards in the United
14:01:32 18 States, those are the standards that UBS have to adhere to,
14:01:37 19 correct?

14:01:37 20 A. Correct.

14:01:38 21 Q. Now, you said you know a little bit about MTM. What is
14:01:44 22 that?

14:01:44 23 A. My understanding, MTM was formed as a result of the second
14:01:48 24 suspension by ADT in order to secure the Pemex contracts.

14:01:53 25 Q. So at the second suspension, could ADT obtain contracts from

14:01:57 1 Pemex?

14:01:57 2 A. Not my understanding.

14:01:59 3 Q. So a new company was formed to do that?

14:02:01 4 A. Take its place.

14:02:10 5 Q. Now, Mr. Sanchez showed you check No. 101 out of that

14:02:15 6 Compass Bank account for the purchase of \$2.2 million worth of

14:02:19 7 horses?

14:02:19 8 A. That's correct.

14:02:19 9 Q. Have you seen that type of activity before in terms of using

14:02:23 10 a first check in other investigations?

14:02:25 11 A. I have.

14:02:26 12 Q. And how do you see that?

14:02:28 13 A. Essentially it's another layer of concealment to give the

14:02:33 14 appearance that the money's coming from another source.

14:02:37 15 Q. And is that the result of opening different bank accounts?

14:02:41 16 A. That's correct.

14:02:42 17 Q. Now, Ms. Williams asked you about any extravagant expenses.

14:02:47 18 Did you see any purchases for any property during your analysis?

14:02:50 19 A. Did not.

14:02:52 20 Q. Did you see any purchase for any horse farms in your

14:02:55 21 analysis?

14:02:56 22 A. I did.

14:02:57 23 Q. And could you tell the ladies and gentlemen of the jury what

14:02:59 24 the price -- the purchase price was for that farm in Lexington,

14:03:03 25 Oklahoma?

14:03:04 1 A. Well, there were two separate purchases. Each purchase was
14:03:09 2 around a half a million dollars. Best of my recollection.

14:03:13 3 Q. And finally, Special Agent Fernald, under Ms. Williams'
14:03:18 4 theory, Jose Trevino would have had to withdraw cash and stuffed
14:03:20 5 it under his mattress to get that \$25,000?

14:03:24 6 A. That's, I think, the fourth example or fourth source of
14:03:29 7 funds that I've heard during the course of the investigation
14:03:32 8 where the money was derived.

14:03:33 9 Q. And what are the other three?

14:03:34 10 A. I understand that he sold his construction company, and
14:03:38 11 that's where he got the money to pay. I know that he supposedly
14:03:44 12 received an inheritance. There was a tip from his
14:03:48 13 brother-in-law. And now it's cashing checks.

14:03:53 14 Q. Pass the witness, your Honor.

14:03:58 15 RE-CROSS EXAMINATION

14:03:58 16 BY MR. SANCHEZ:

14:04:17 17 Q. I want to make it clear. I think you correctly testified to
14:04:23 18 this, but I want to make sure there's no misunderstanding.

14:04:26 19 When you said the suspension, that's the suspension
14:04:29 20 from winning new contracts from ADT -- or ADT couldn't win new
14:04:34 21 contracts?

14:04:35 22 A. From bidding on contracts.

14:04:36 23 Q. Right.

14:04:36 24 A. It's my understanding.

14:04:37 25 Q. From bidding on contracts?

14:04:39 1 A. Yes.

14:04:39 2 Q. But they could receive payments from Pemex?

14:04:42 3 A. I surmise.

14:04:43 4 Q. And they could increase the contracts that they had already

14:04:46 5 won?

14:04:47 6 A. I don't know that.

14:04:48 7 Q. But you're not saying that's not true?

14:04:50 8 A. I don't know.

14:04:53 9 Q. And we talked a little bit about sourcing one way or

14:05:00 10 another. And do you remember when we went through the exercise

14:05:04 11 of going through this binder?

14:05:06 12 A. Yes, sir.

14:05:07 13 Q. In that exercise, did we at least source this check, the

14:05:18 14 Ruidoso check? Did we at least --

14:05:25 15 A. It's in 2010.

14:05:27 16 Q. It's right there on the edge?

14:05:30 17 A. Yes, sir.

14:05:30 18 Q. So did we at least source that particular funds to July

14:05:48 19 2010? Remember that exercise?

14:05:49 20 A. I do.

14:05:50 21 Q. Where we had two large wires of over 100 million pesos?

14:05:56 22 A. I do.

14:05:57 23 Q. Okay. So I guess we've sourced it all the way to a wire for

14:06:05 24 100 million pesos, and it's just a matter of where that wire

14:06:11 25 comes from is what's in your mind, right?

14:06:14 1 A. Yes, sir.

14:06:15 2 Q. All right. But it was in pesos. We know that.

14:06:21 3 A. Yes, sir.

14:06:22 4 Q. Wasn't cash. It was a wire?

14:06:25 5 A. Yes, sir.

14:06:29 6 Q. And, in fact, did you have a chance to look through these

14:06:40 7 records -- and I understand you may not have the actual checks

14:06:45 8 when there's a check deposited in that account, and you may not

14:06:49 9 have more details that you would like as far as the wire. So did

14:06:54 10 you have -- you can tell whether it's cash being deposited or

14:06:58 11 not, right?

14:06:58 12 A. I couldn't. No, sir. They're not in English. I don't

14:07:02 13 know.

14:07:02 14 Q. Have you ever analyzed any bank records from Mexico?

14:07:09 15 A. No, sir.

14:07:10 16 Q. Do you know any Spanish?

14:07:13 17 A. A little bit.

14:07:39 18 Q. I'll let you read that. Then I'll put it up on the screen.

14:08:37 19 You see these?

14:08:38 20 A. Yes, sir.

14:08:40 21 Q. That appears to be three deposits on August 9, 2010 for

14:08:56 22 1,500 pesos, 600 pesos and 80 pesos. Do you see those?

14:09:00 23 A. Yes, sir.

14:09:02 24 Q. So without knowing too much Spanish, you would be able to go

14:09:07 25 through these records, not just the ones in this book, but all

14:09:11 1 the ADT bank statements that had been provided to determine how
14:09:16 2 much cash had been coming into that bank account. Those bank
14:09:20 3 accounts, right?

14:09:21 4 A. Potentially.

14:09:22 5 Q. Did you do that?

14:09:23 6 A. I did not.

14:09:26 7 Q. Will you agree with me that there's relatively small --
14:09:33 8 1,500 pesos is a small amount?

14:09:34 9 A. Yes, sir.

14:09:35 10 Q. So somebody could go through here and could go through all
14:09:43 11 of those to determine whether cash was being deposited into the
14:09:48 12 ADT accounts, right?

14:09:53 13 A. I agree.

14:09:56 14 Q. And by the way, there are IRS agents that are familiar with
14:10:01 15 account statements from Mexico and statements in Spanish, right?

14:10:08 16 A. I don't know.

14:10:09 17 Q. You don't know?

14:10:12 18 A. I don't know anybody.

14:10:12 19 Q. What about from the FBI?

14:10:14 20 A. I don't know, sir.

14:10:52 21 Q. By the way, you understand that UBS analyzed those same
14:10:57 22 financial statements. Looking at the financial statements --
14:11:02 23 because to them, the solvency or the financial strength of ADT
14:11:08 24 was important. They looked at those financial statements, they
14:11:11 25 evaluated those financial statements and decided to lend money to

14:11:15 1 ADT. You understand that, right?

14:11:17 2 A. I understand that.

14:11:21 3 Q. Pass the witness.

14:11:33 4 THE COURT: Ms. Williams, one second while I call roll.
14:11:37 5 Mr. Womack.

14:11:40 6 MS. WILLIAMS: Oh, sorry.

14:11:41 7 THE COURT: Mr. Womack. How about Mr. Esper?

14:11:44 8 MR. ESPER: No, your Honor.

14:11:45 9 THE COURT: And, Mr. Mayr?

14:11:46 10 MR. MAYR: Pass.

14:11:47 11 MS. WILLIAMS: I apologize, your Honor.

14:11:50 12 RE-CROSS EXAMINATION

14:11:50 13 BY MS. WILLIAMS:

14:11:52 14 Q. Agent Fernald, Special Agent Fernald, you've heard of at
14:11:58 15 least one other possibility for how Jose and Zulema Trevino
14:12:05 16 legitimately amassed \$25,000, haven't you?

14:12:10 17 A. I don't know about legitimately, but I've heard several
14:12:14 18 different variations of how the horse was purchased or how the
14:12:17 19 money was derived.

14:12:18 20 Q. One more than you testified to.

14:12:20 21 A. I don't know. I was just guessing.

14:12:22 22 Q. And that they sold property in Mexico.

14:12:24 23 A. That was not intentional. I just forgot that one.

14:12:27 24 Q. And that's why I'm asking. That is another?

14:12:29 25 A. I had heard that they had sold some property, as well.

14:12:35 1 Q. You would agree with me, would you not, that not all
14:12:42 2 payments to independent contractors get made through a check?

14:12:48 3 A. Agree.

14:12:49 4 Q. Or get reported to the IRS?

14:12:51 5 A. I would agree.

14:12:52 6 Q. And given what you now know, is it your testimony that it
14:13:01 7 would be impossible for Jose and Zulema Trevino to amass \$25,000
14:13:12 8 and stick it under their mattress? Is that impossible?

14:13:18 9 A. It's not impossible, but it's certainly not consistent with
14:13:21 10 their lifestyle.

14:13:26 11 Q. Nothing further.

14:13:27 12 RE-DIRECT EXAMINATION

14:13:27 13 BY MR. GARDNER:

14:13:29 14 Q. Special Agent, I just want to make sure. Ms. Williams just
14:13:31 15 offered a fifth theory of how they got their \$25,000 for Tempting
14:13:37 16 Dash, correct?

14:13:37 17 A. Correct. I lost count.

14:13:40 18 Q. Pass the witness.

14:13:43 19 THE COURT: May this witness be excused?

14:13:46 20 MS. WILLIAMS: No objection.

14:13:47 21 THE COURT: You may be excused.

14:13:48 22 THE WITNESS: Yes, sir.

14:13:50 23 THE COURT: Call your next witness.

14:13:51 24 MR. GARDNER: Thank you, your Honor. Government calls
14:13:54 25 Kyle Mori.

14:14:19 1 (Witness sworn.)

14:14:34 2 THE COURT: If you'll please tell me your full name and
14:14:42 3 spell your last.

14:14:42 4 THE WITNESS: Yes, your Honor. It's Kyle Mori, Kyle,
14:14:47 5 K-Y-L-E, M-O-R-I.

14:14:49 6 THE COURT: You may proceed.

14:14:51 7 MR. GARDNER: Thank you, your Honor.

14:14:53 8 KYLE MORI, called by the Government, duly sworn.

14:14:53 9 DIRECT EXAMINATION

14:14:53 10 BY MR. GARDNER:

14:14:54 11 Q. Task Force Officer? Detective?

14:14:56 12 A. Either one's fine.

14:14:57 13 Q. I'll call you Task Force Officer. Could you please
14:15:00 14 introduce yourself to the jury? Tell them where you live and
14:15:01 15 what you do for a living.

14:15:02 16 A. Sure. My name's Kyle Mori. I'm a task force officer for
14:15:05 17 the Department of Justice, Drug Enforcement Administration. I
14:15:09 18 live in Los Angeles County, California, and I'm assigned to the
14:15:13 19 DEA Orange County resident office, which is located in Santa
14:15:17 20 Anna, California. I've been a DEA about four-and-a-half years,
14:15:22 21 and I've been a law enforcement officer for approximately twelve
14:15:26 22 years in the state of California.

14:15:27 23 Q. Sir, I want to turn your attention back to March of last
14:15:30 24 year. And if you will, could you please explain the significance
14:15:34 25 of an event that occurred at the Los Alamitos, California race

14:15:39 1 track?

14:15:40 2 A. Yes. March 2012, I believe the day was March 27th, it was
14:15:47 3 at the office and I was completing paperwork. It was a pretty
14:15:52 4 routine day, and some point in the mid-morning, late morning
14:15:57 5 time, my supervisor came to me and said, I need you to gather up
14:16:02 6 some --

14:16:02 7 MS. WILLIAMS: Object to hearsay.

14:16:04 8 THE COURT: Don't state what he told you. Just what
14:16:07 9 you did after whatever he stated.

14:16:10 10 A. Yes, your Honor.

14:16:11 11 Q. (BY MR. GARDNER) So your supervisor gave you some
14:16:13 12 information. What did you do after that?

14:16:14 13 A. I gathered up three or four of my partners in my group and
14:16:19 14 responded to the Los Alamitos race track, which is located in
14:16:23 15 Cypress, California.

14:16:24 16 Q. And who were you looking for on that day?

14:16:26 17 A. We were looking for Omar Trevino-Morales.

14:16:31 18 Q. And you'd received information that he might be present at
14:16:35 19 the track?

14:16:35 20 A. That's correct.

14:16:36 21 Q. So based on that information, what did you do after you got
14:16:40 22 to the race track?

14:16:41 23 A. We contacted the Cypress Police Department and their special
14:16:45 24 enforcement unit. They responded to assist us. I conducted a
14:16:51 25 briefing. We went over Mr. Trevino Morales' background and what

14:16:56 1 our game plan was there. Some point after we were there, I was
14:17:03 2 contacted by a supervisor from the U.S. Marshal's Service, also
14:17:08 3 from Orange County. He told me that they --

14:17:11 4 MS. WILLIAMS: Objection. Hearsay.

14:17:13 5 THE COURT: She's right.

14:17:16 6 Q. (BY MR. GARDNER) Did you conduct a search of the Los
14:17:19 7 Alamitos race track?

14:17:19 8 A. We did.

14:17:23 9 Q. Is that looking for Omar Trevino?

14:17:25 10 A. Omar. And then, later, we -- I was also looking for Miguel
14:17:30 11 Trevino-Morales' brother, as well.

14:17:32 12 Q. And I'm going to show you Government's Exhibit 335A -- or B
14:17:42 13 first. Is that the individual you were looking for that day?

14:17:44 14 A. Yes.

14:17:45 15 Q. Now can you give me A? Is that Miguel Trevino's brother?

14:17:55 16 A. It's Miguel, I believe. Yes.

14:17:56 17 Q. Yeah. Miguel. Did you encounter either one of these two
14:18:00 18 individuals at the race track that day?

14:18:01 19 A. No.

14:18:01 20 Q. Who did you encounter?

14:18:03 21 A. I encountered six or seven individuals. Among them were
14:18:11 22 gentleman Luis Aguirre, Carlos Nayan, Felipe Quintero and some --
14:18:20 23 those are the ones that stick out of my mind. There were some
14:18:22 24 others, too.

14:18:24 25 Q. Could I see 335E, please? And who do you recognize that

14:18:30 1 person to be? If I were to say Carlos Nayen, would that refresh
14:18:38 2 your memory?

14:18:38 3 A. Yes. That's Carlos.

14:18:40 4 Q. I think the jury's heard his name enough. And how about
14:18:57 5 this individual, sir?

14:19:00 6 A. I believe that's Mr. Quintero.

14:19:05 7 Q. And how did you encounter these individuals?

14:19:10 8 A. Well, as I indicated, we conduct -- you know, I led this
14:19:13 9 search of the actual race track stables, but prior to that, we
14:19:20 10 wanted -- I wanted to ensure that the individuals we were looking
14:19:25 11 for, the Trevino-Morales brothers, didn't sort of escape out the
14:19:28 12 back door and leave in a car, and I knew a possible car they may
14:19:34 13 be driving in. So we started stopping cars that were leaving,
14:19:38 14 and these three individual, among others, were located in some
14:19:43 15 cars that we stopped during this event on March 27th.

14:19:51 16 Q. So was Carlos Nayen and Felipe Quintero and Luis Aguirre
14:19:57 17 traveling together?

14:19:59 18 A. No. I don't believe the three of them were together. They
14:20:03 19 may have been, but I believe it was only Mr. Quintero and Mr.
14:20:05 20 Nayen, I believe, were together. But they were in cars that were
14:20:09 21 stopped all around the same time, in the same area there at the
14:20:12 22 race track.

14:20:14 23 Q. All the questions I have, your Honor.

14:20:18 24 MS. WILLIAMS: No questions.

14:20:20 25 MR. DEGEURIN: No questions.

14:20:21 1 MR. WOMACK: No questions.

14:20:22 2 MR. ESPER: I have nothing, Judge, thank you.

14:20:24 3 MR. MAYR: None, your Honor.

14:20:26 4 THE COURT: I'm tempted to say I will, but I don't.

14:20:32 5 May the witness be excused?

14:20:33 6 MR. FINN: Yes.

14:20:34 7 THE COURT: You may be excused.

14:20:36 8 THE WITNESS: Thank you, your Honor.

14:20:39 9 THE COURT: Call your next witness.

14:20:41 10 MR. GARDNER: Government would call Felipe Quintero.

14:21:10 11 (Witness sworn.)

14:21:34 12 THE COURT: If you'll tell me, please, sir, your full

14:21:37 13 name and spell your last.

14:21:38 14 THE WITNESS: My full name is Felipe Alejandro

14:21:41 15 Quintero. My last name starts with a Q-U-I-N-T-E-R-O.

14:21:46 16 FELIPE A. QUINTERO, called by the Government, duly sworn.

14:21:46 17 DIRECT EXAMINATION

14:21:46 18 BY MR. GARDNER:

14:21:48 19 Q. Thank you, your Honor.

14:21:48 20 Mr. Quintero, if you will -- good afternoon. Could you

14:21:51 21 introduce yourself for the jury? Tell them how old you are,

14:21:54 22 where you live, and what you do for a living.

14:21:56 23 A. My name is Felipe Alejandro Quintero. I'm 29 years old and

14:22:01 24 I train horses for a living.

14:22:03 25 Q. And, sir, you've pled guilty in this case; is that correct?

14:22:05 1 A. Yes, sir.

14:22:06 2 Q. Was that to a lesser charge?

14:22:08 3 A. Yes, sir.

14:22:08 4 Q. Okay. Was that charge called structuring?

14:22:11 5 A. Yes, sir.

14:22:11 6 Q. Could you describe for the jury what your understanding of

14:22:15 7 structuring is?

14:22:16 8 A. My understanding of structuring is where I allow people to

14:22:20 9 deposit money in my account for an amount less than \$10,000 to

14:22:24 10 hide it from the banks.

14:22:27 11 Q. And in addition to pleading to that charge, you and I also

14:22:30 12 have an agreement; is that correct?

14:22:32 13 A. Yes, sir.

14:22:33 14 Q. Okay. What's the agreement between the government and you

14:22:35 15 and your attorney?

14:22:36 16 A. A recommendation for.

14:22:40 17 Q. Probation?

14:22:41 18 A. Probation. Yes, sir.

14:22:42 19 Q. And you understand it's just a recommendation that I, as a

14:22:46 20 representative of the government, will make to the Court when you

14:22:48 21 get sentenced, correct?

14:22:49 22 A. Yes, sir.

14:22:49 23 Q. Okay. Do you understand that that is entirely up to the

14:22:53 24 Judge to either accept or object that recommendation?

14:22:55 25 A. Yes, sir.

14:22:56 1 Q. You said you were a trainer for a living. Was this also at
14:23:03 2 the Los Alamitos race track?

14:23:05 3 A. Yes, sir.

14:23:07 4 Q. How long have you been a trainer, sir?

14:23:08 5 A. I've been -- I've had my trainer's license since 2007.

14:23:13 6 Q. And do you also, as part of your training duties, attend
14:23:17 7 various auctions and assist your owners in picking horses?

14:23:20 8 A. Yes, sir.

14:23:22 9 Q. Let's say you had an unlimited checkbook, blank check. What
14:23:27 10 type of horses, bloodlines would you favor?

14:23:31 11 A. Most definitely like First Down Dashes, Corona Cartels, Mr.
14:23:37 12 Jess Perrys, or Walk Thru Fires, top bloodlines in the industry.

14:23:41 13 Q. And so, what's the guarantee that if you purchase one of
14:23:47 14 these bloodlines, your horse will do better than anything else?

14:23:50 15 A. Nothing's a guarantee, but it's more likely for you to get a
14:23:53 16 better horse with those bloodlines than all the other horses.

14:23:56 17 Q. Is that fairly well-understood in the industry?

14:24:01 18 A. Yes. Yes, sir.

14:24:03 19 Q. Do you have to be a rocket scientist to understand to pick
14:24:06 20 those horses?

14:24:08 21 A. No, sir.

14:24:09 22 Q. Do you know an individual by the name of Carlos Nayan?

14:24:12 23 A. Yes, sir.

14:24:12 24 Q. And when did you first meet him?

14:24:14 25 A. I met him, I think it was, a couple of days before the

14:24:19 1 Ruidoso -- the All American Futurity trials.

14:24:22 2 Q. And what year was that?

14:24:23 3 A. It was in 2010.

14:24:25 4 Q. And when you say Ruidoso, it was in Ruidoso where you met
14:24:29 5 him?

14:24:30 6 A. No. We picked him up from the airport in El Paso, Texas.

14:24:35 7 Q. When you say "we," who is "we"?

14:24:36 8 A. Me and Fernando Garcia.

14:24:39 9 Q. Do you recognize Mr. Garcia in the courtroom today?

14:24:42 10 A. Yes, sir.

14:24:43 11 Q. The individual standing up?

14:24:44 12 A. Yes, sir.

14:24:45 13 Q. Your Honor, may the record reflect the witness has
14:24:47 14 identified the Defendant Fernando Garcia?

14:24:51 15 THE COURT: So reflects.

14:24:53 16 Q. (BY MR. GARDNER) What did Mr. Garcia tell you about Mr.
14:24:57 17 Nayan?

14:24:57 18 A. That he was a horse trainer from Mexico and that, you know,
14:25:05 19 that he was -- he owned some pretty good horses himself.

14:25:09 20 Q. And when you first came to California, did you have contact
14:25:12 21 with the Defendant Garcia?

14:25:13 22 A. When who came to California?

14:25:17 23 Q. I'm sorry. Good point.

14:25:18 24 When you came from California to New Mexico, did you
14:25:22 25 contact Defendant Garcia about that?

14:25:26 1 A. About?

14:25:27 2 Q. Coming to New Mexico?

14:25:28 3 A. Coming to New Mexico. Yeah. I actually had a friend
14:25:32 4 contacted him to see if he could let me borrow a stall in New
14:25:36 5 Mexico because I was going to take one of my horses to run in
14:25:40 6 Ruidoso for the trial. So the All American Futurity.

14:25:45 7 Q. So when you get there at that point -- let me define point.
14:25:49 8 When was that?

14:25:49 9 A. I get there about around July of 2010.

14:25:55 10 Q. So in July of 2010, were you the trainer for Mr. Piloto?

14:26:00 11 A. No, sir.

14:26:01 12 Q. At some point, did you become the trainer for Mr. Piloto?

14:26:04 13 A. Yes, sir, when the horse arrived in California.

14:26:08 14 Q. Going back to Mexico for both the trials and the finals,
14:26:13 15 were you the listed trainer?

14:26:14 16 A. I was the listed trainer.

14:26:16 17 Q. Can you explain what that means to the jury?

14:26:18 18 A. That I was -- according to rules and regulations of the
14:26:24 19 AQHA, I was a program trainer for the house.

14:26:26 20 Q. And what's program trainer?

14:26:28 21 A. Program trainer is just pretty much I'm a licensed trainer
14:26:32 22 in the state of New Mexico, and the horse just runs under my name
14:26:36 23 because I'm the one that's authorized to have the horse run under
14:26:39 24 my name.

14:26:40 25 THE COURT: I'm going to ask you to move that

14:26:41 1 microphone a little bit further away from you. Thank you.

14:26:45 2 Q. (BY MR. GARDNER) Why didn't Fernando Garcia list himself as
14:26:50 3 the trainer of that horse?

14:26:51 4 A. I don't think he's a licensed trainer.

14:26:56 5 Q. And when you started to become program trainer for Mr.
14:26:59 6 Piloto, did you know who the owner was?

14:27:02 7 A. At the moment, Fernando Garcia was the owner of the horse.

14:27:09 8 Q. So what training, if any, did you do for Mr. Piloto?

14:27:16 9 A. Me and Mr. Garcia would, you know, discuss a couple of
14:27:21 10 things that I do with horses, and he would take them into
14:27:25 11 consideration.

14:27:27 12 Q. Who would do the actual training for Mr. Piloto?

14:27:32 13 A. Mr. Garcia did.

14:27:34 14 Q. So getting to the trials or the qualifiers, did Mr. Piloto
14:27:40 15 win his race?

14:27:40 16 A. Yes, sir, he did.

14:27:41 17 Q. I believe the jury's heard, he qualified for the finals?

14:27:43 18 A. Yes, sir, he did.

14:27:44 19 Q. And when we get to the finals, are you still the listed
14:27:48 20 trainer for that horse?

14:27:49 21 A. Yes, sir.

14:27:49 22 Q. Did you ever meet an individual by the name of Jose Trevino?

14:27:53 23 A. Yes, sir, I did.

14:27:53 24 Q. And do you recognize him in the courtroom today?

14:27:55 25 A. Yes, I do.

14:27:56 1 Q. This individual standing up here?

14:27:58 2 A. Yes, sir.

14:27:59 3 Q. Wearing the red tie?

14:28:01 4 A. Yes, sir.

14:28:01 5 Q. Your Honor, may the record reflect the witness has
14:28:03 6 identified the Defendant Jose Trevino?

14:28:05 7 THE COURT: So reflects.

14:28:07 8 Q. (BY MR. GARDNER) When were you first introduced to Jose
14:28:10 9 Trevino?

14:28:10 10 A. I was introduced to him a couple of days before the trials
14:28:14 11 of the All American Futurity. So it would be back in around
14:28:17 12 August 2010.

14:28:19 13 Q. So before the --

14:28:20 14 A. Before the trials.

14:28:21 15 Q. -- the qualifiers?

14:28:22 16 A. Yes, sir.

14:28:22 17 Q. Okay. And how was he introduced to you?

14:28:24 18 A. He was introduced to me as the owner of Feature Honor,
14:28:29 19 another horse that was in the same barn at the time.

14:28:34 20 Q. And did you ever have any discussions with the Defendant
14:28:38 21 Garcia about him selling that horse after the qualifiers?

14:28:41 22 A. No, sir. I didn't.

14:28:42 23 Q. When did you first become aware that Jose Trevino became the
14:28:45 24 owner between the qualifiers and the finals?

14:28:48 25 A. When I went back to -- for the final. When the horse was

14:28:50 1 going to run in the final race of the All American Futurity.

14:28:54 2 Q. And how did you find out?

14:28:57 3 A. Because of the entry book. The entries on the horse.

14:29:01 4 Q. So did you find out through an official race program?

14:29:04 5 A. Yes, sir.

14:29:04 6 Q. Did either Mr. Trevino or Fernando Garcia explain to you any

14:29:11 7 of the circumstances surrounding the change in ownership?

14:29:13 8 A. No, sir.

14:29:18 9 Q. How did your horse do?

14:29:19 10 A. At the final?

14:29:21 11 Q. Yeah, your horse.

14:29:22 12 A. Oh, my horse. He ran third in the trials.

14:29:26 13 Q. So after the All American Futurity, Mr. Piloto wins, you

14:29:32 14 receive the standard ten percent trainer's cut?

14:29:34 15 A. Yes, sir. I did.

14:29:35 16 Q. And what do you do with that?

14:29:36 17 A. I kept about \$30,000 of that check.

14:29:40 18 Q. So what happened to the other 70,000?

14:29:43 19 A. I was told by -- I believe he's an accountant that to make

14:29:48 20 payments on the Oklahoma futurity -- a futurity in Oklahoma.

14:29:56 21 Q. Can you recall this accountant's name?

14:29:59 22 A. I do not, sir.

14:30:00 23 Q. And do you recall how you were contacted by an accountant?

14:30:05 24 A. By e-mail.

14:30:06 25 Q. Do you recall the e-mail of that?

14:30:08 1 A. Mr. Guerrero at, I think -- I don't remember exactly what it
14:30:13 2 is, but Mr. Guerrero at Yahoo!

14:30:19 3 Q. And was it through that e-mail communication in which you
14:30:22 4 were directed to send the money to Oklahoma?

14:30:25 5 A. Yes, sir.

14:30:25 6 Q. And do you recall the horses that you were paying for?

14:30:30 7 A. No, sir.

14:30:33 8 Q. And where did you send that money?

14:30:35 9 A. Through wire transfer from Bank of America to Heritage Place
14:30:40 10 in Oklahoma City.

14:30:47 11 Q. So after the All American Futurity, you were paid, you
14:30:51 12 returned to California?

14:30:52 13 A. Yes, sir.

14:30:52 14 Q. And what horses are you training at that time?

14:30:58 15 A. In California?

14:30:59 16 Q. Yes, sir.

14:31:00 17 A. I don't remember to be honest. I had a barn of about twelve
14:31:06 18 horses.

14:31:07 19 Q. I probably asked the wrong question.

14:31:10 20 Who were the owners you were training for at that time?

14:31:17 21 A. I mean, I had owners -- I had like eight different owners.
14:31:26 22 I don't remember exactly who was part of my barn at that time.

14:31:28 23 Q. Some point, did you start training for Carlos Nayan?

14:31:31 24 A. Yes, sir, I did.

14:31:32 25 Q. And what -- could you explain the circumstances of that

14:31:37 1 arrangement?

14:31:38 2 A. I started training for Carlos Nayan probably back in --
14:31:45 3 well, as far as him, I did not train for him. I trained for
14:31:50 4 Mr. Colorado back in -- probably I started training for him back
14:31:53 5 in November of 2010.

14:31:56 6 Q. And who made the arrangements for you to train for Francisco
14:32:01 7 Colorado?

14:32:02 8 A. Carlos Nayan did.

14:32:04 9 Q. Do you recognize an individual that you know as Francisco
14:32:08 10 Colorado in the courtroom today?

14:32:10 11 A. Yes, I do.

14:32:10 12 Q. This individual, if you'll stand one more time. This
14:32:16 13 individual here in the blue tie?

14:32:17 14 A. Yes, sir.

14:32:18 15 Q. Your Honor, may the record reflect the witness had
14:32:21 16 identified the Defendant Colorado?

14:32:22 17 THE COURT: So reflects.

14:32:23 18 Q. (BY MR. GARDNER) And what did Carlos Nayan explain to you
14:32:26 19 with respect to the arrangement for training Mr. Colorado's
14:32:29 20 horses?

14:32:30 21 A. Well, you know, he introduced me to him as an extremely
14:32:37 22 successful businessman from Mexico and I had -- I actually knew
14:32:41 23 Mr. Colorado before because he used to own horses in Los Alamitos
14:32:46 24 a year past.

14:32:49 25 Q. Now, Mr. Quintero, I'm showing you Government's Exhibit

14:32:52 1 358H. Do you recognize those, sir?

14:32:57 2 A. Yes, sir.

14:32:57 3 Q. Okay. Are those, in fact, your e-mails?

14:32:59 4 A. Yes, sir.

14:33:00 5 Q. What was your company's name?

14:33:04 6 A. That's FF Racing Stables.

14:33:08 7 Q. And what's the FF stand for?

14:33:09 8 A. It's for Felipe and Felipe. My father and I.

14:33:14 9 THE COURT: Did you say SS?

14:33:15 10 THE WITNESS: FF.

14:33:18 11 Q. (BY MR. GARDNER) And do you recall going through these
14:33:22 12 e-mails with me in a previous occasion?

14:33:23 13 A. Yes, sir.

14:33:24 14 Q. And I'm just going to show you a couple of them.

14:33:41 15 Now, this is a cover page prepared by the government.
14:33:44 16 You did not have any involvement preparing the cover page,
14:33:47 17 correct?

14:33:47 18 A. Yes, sir.

14:33:50 19 MR. MAYR: Your Honor, I don't believe we have these
14:33:52 20 admitted into evidence. Were they --

14:33:54 21 MR. GARDNER: Oh, I'm sorry. Did I not offer this one?

14:33:57 22 THE COURT: Not this.

14:33:58 23 MR. GARDNER: I apologize, your Honor. Your Honor, I
14:34:00 24 offer Government's Exhibit 358H.

14:35:07 25 MR. DEGEURIN: Could we approach, your Honor?

14:35:09 1 THE COURT: Why not.

14:35:15 2 (At the bench, on the record.)

14:35:24 3 MR. DEGEURIN: This is primarily something that we just
14:35:31 4 -- when they say we have all these exhibits.

14:35:33 5 THE COURT: What are we up again?

14:35:48 6 MR. DEGEURIN: The reason we had a problem with some of
14:35:51 7 these statements is because even though Ms. Fernald said, you
14:35:57 8 have all the records, those records are business records for the
14:36:03 9 stables.

14:36:03 10 THE COURT: I can see all of these --

14:36:05 11 MR. DEGEURIN: We don't have that put together. We
14:36:15 12 have identified an exhibit that for us to put it together to look
14:36:17 13 at it before we do here in the courtroom, we have to go through
14:36:25 14 about a thousand documents.

14:36:25 15 MR. GARDNER: May I respond, your Honor?

14:36:27 16 MR. DEGEURIN: Is that right?

14:36:28 17 MR. GARDNER: We are more than frustrated. Mr.
14:36:31 18 DeGeurin, these exhibits have been available for inspection in
14:36:36 19 our offices in which you have never visited to look at.

14:36:40 20 MR. DEGEURIN: But I sent --

14:36:42 21 MR. GARDNER: And -- excuse me.

14:36:43 22 THE COURT: One at a time. Go ahead.

14:36:44 23 MR. GARDNER: These particular exhibits have been in
14:36:47 24 the courtroom for the last two weeks, and you have not taken the
14:36:51 25 time to look at any of them. Your fellow counsel have had plenty

14:36:55 1 of opportunity and it was laying there to look at the exhibits
14:36:58 2 all the time.

14:36:58 3 MR. DEGEURIN: During trial?

14:37:00 4 MR. GARDNER: Yes. Your Honor, I can only make the
14:37:02 5 stuff available. I can't control how Mr. DeGeurin or any of
14:37:04 6 these other attorneys deal with the exhibits.

14:37:07 7 MR. WOMACK: Your Honor, if I can make one comment.
14:37:10 8 One thing the government has done and they did it the Friday
14:37:13 9 before trial is they gave us a disc that had -- well, they gave
14:37:16 10 us several discs that had discovery, and they broke it down by
14:37:19 11 witnesses. For Mr. Quintero, there were none of these e-mails.
14:37:23 12 All we had was a plea agreement. I think that was it.

14:37:28 13 MR. GARDNER: Interview report.

14:37:31 14 MR. WOMACK: Maybe so.

14:37:32 15 MR. GARDNER: I provided these -- the transcripts at
14:37:33 16 the request of the Court on March 13th.

14:37:38 17 MR. WOMACK: All right. And I've seen those.

14:37:40 18 MR. GARDNER: That's what you're looking at.

14:37:41 19 MR. WOMACK: Okay.

14:37:41 20 THE COURT: All right. I know many of you practice in
14:37:47 21 other courts, but here in Austin, it's been an open discovery
14:37:51 22 court since I came here in '91. It's a special case, I'm told.
14:37:59 23 I have been told this and that's why I suggested the government
14:38:03 24 dates that he's given that. I just got out of a series of multi
14:38:09 25 trials in a rather celebrated case that did the same thing. But

14:38:14 1 it doesn't do any good for us to be up here hollering at each
14:38:18 2 other.

14:38:19 3 You've got 358H. What do you need? You need time to
14:38:23 4 look at it?

14:38:24 5 MR. DEGEURIN: Yeah.

14:38:25 6 THE COURT: You've had that. And, you know, I
14:38:27 7 understand, you told me you had obligation to go through all of
14:38:32 8 that. I would assume that you selected what you wanted to do,
14:38:36 9 but it doesn't look like it's that big a deal. So why don't --
14:38:40 10 why don't y'all go look at it instead of hovering up around the
14:38:45 11 teepee here and complaining.

14:38:46 12 MR. DEGEURIN: I think once you look at it, it's not --

14:38:52 13 THE COURT: Counsel, I know that there's a lot of paper
14:38:54 14 here, a lot of witnesses. I'm not going to get mad at anybody.
14:39:01 15 It doesn't do anything. I didn't get mad as a lawyer.

14:39:11 16 MR. DEGEURIN: Is there any way I can get an exhibit --
14:39:18 17 just ask her to first make me a copy instead of after it's
14:39:20 18 admitted. And it used to be the old days, the government would
14:39:25 19 have an exhibit, we'd have a copy of it, maybe we wouldn't burden
14:39:30 20 the Court so we'd have that same exhibit.

14:39:31 21 THE COURT: If you'd have gone over -- in Houston, they
14:39:37 22 don't practice this way. They get it on the stand.

14:39:40 23 MR. DEGEURIN: It used to be we'd get a package of
14:39:43 24 exhibits, the ones we're going to get --

14:39:46 25 THE COURT: My experience in Houston was I needed

14:39:49 1 transfusions for the lack of formalities that lawyers have. And
14:39:53 2 I've tried cases in Houston. They just try them totally
14:39:57 3 different. There was no cooperation, no information. But that's
14:40:05 4 -- you could have gone over there for weeks before the trial, and
14:40:09 5 if you'd wanted a copy, you could have gotten a copy. But you
14:40:13 6 didn't go.

14:40:14 7 MR. DEGEURIN: No. I have some.

14:40:16 8 THE COURT: Well, they apparently didn't get copies of
14:40:20 9 what you think that they should.

14:40:22 10 MR. DEGEURIN: Because we had made a copy of that whole
14:40:23 11 thing at your office and I didn't know about this.

14:40:27 12 MR. GARDNER: No. The question wasn't asked. That was
14:40:34 13 in the room.

14:40:35 14 MR. DEGEURIN: Inside the box?

14:40:36 15 MR. GARDNER: Inside the room. We laid out all our
14:40:39 16 exhibits inside the room. Your son was there.

14:40:42 17 MR. DEGEURIN: Yeah, my son was there. He said, you
14:40:44 18 may want to come spend a couple of weeks looking over this.

14:40:52 19 THE COURT: Well, you know, in antitrust cases, I spent
14:40:59 20 months going through all the purchases in Fort Bliss. That's 16
14:41:04 21 years. I had eight people. I had to go through it. Nobody
14:41:14 22 helped me. I had to go through it. I had Bates machines. Well,
14:41:18 23 Bates machines. Isn't this a wonderful story? And we used them.

14:41:25 24 Now, let's go back to 358. It's this big?

14:41:29 25 MR. GARDNER: Yes, sir, your Honor.

14:41:30 1 THE COURT: By this time, you could have been through
14:41:32 2 it.

14:41:34 3 MR. DEGEURIN: And I think Andres did go through it,
14:41:40 4 but I don't -- if you get frustrated with me, your Honor, but
14:41:44 5 seriously, I'm accustomed to having copies of the exhibits that
14:41:51 6 are going to be introduced. If he didn't know --

14:41:54 7 MR. GARDNER: And I'm accustomed to attorneys come look
14:41:56 8 at discovery, Mike.

14:41:57 9 THE COURT: And if you read the pleadings in this
14:42:02 10 record, you'll see that all of this material that was obtained
14:42:05 11 has been available for a long time. And I think only one or two
14:42:10 12 people ever bothered to come look at it. But that's not the
14:42:15 13 problem, counsel. We've got a jury out there. Nobody wants to
14:42:20 14 look bad. But I'm going to let you have enough time to look at
14:42:23 15 whatever you want to look at.

14:42:26 16 Just remember the jury is sitting there. It's not
14:42:30 17 good. I don't want to keep sending them into the jury room
14:42:34 18 either. I don't think that's a very good idea. So assuming that
14:42:39 19 you've gone through these things and you've been looking at them.

14:42:51 20 MR. DEGEURIN: No copies of.

14:42:56 21 MR. ESPER: Your Honor, could we take a break? I need
14:42:58 22 to use the bathroom. I don't know if the Court's ready to or
14:43:02 23 not.

14:43:03 24 MR. WOMACK: And we've got to look at this document.

14:43:05 25 MR. GARDNER: Your Honor, we anticipate my foundation

14:43:07 1 witnesses for all the e-mails will be on this afternoon. So I
14:43:10 2 would ask to avoid this that maybe the attorneys have the
14:43:12 3 opportunity to look at all the e-mails that the government
14:43:15 4 selected, exhibits that we intend to offer. 358 is a series,
14:43:21 5 your Honor. There's a number of other e-mails.

14:43:22 6 THE COURT: How long do you think it would take?

14:43:24 7 MR. GARDNER: It's probably a stack of 500 pages in
14:43:26 8 total, your Honor.

14:43:30 9 MR. ESPER: And, your Honor, with respect, I brought
14:43:31 10 this up at a prior hearing. One of those e-mails from Mr. -- I
14:43:35 11 believe Mr. Garcia? Is that one of his e-mails? Where they have
14:43:41 12 the newspaper account.

14:43:43 13 MR. GARDNER: Well, that's not coming in.

14:43:45 14 MR. ESPER: Huh?

14:43:46 15 MR. GARDNER: That's not coming in anymore because Mr.
14:43:50 16 Farias has pled.

14:43:51 17 THE COURT: Take a break. Use the facilities, stretch,
14:43:58 18 pray for rain.

14:44:31 19 (Jury not present.)

14:44:37 20 THE COURT: Those of you in the courtroom, we're in
14:44:39 21 recess for 15 minutes at least.

14:44:49 22 (At the bench, on the record.)

14:44:53 23 THE COURT: How long are you going to proceed?

14:44:55 24 MR. GARDNER: Your Honor, these are the witness'
14:44:57 25 e-mails. So I'm thinking he can identify them as his own

14:45:00 1 statements and his own e-mails and business records.

14:45:04 2 THE COURT: I'm concerned about the presentation. For
14:45:15 3 example, this next witness you're going to have will just be
14:45:19 4 concerned with these?

14:45:20 5 MR. GARDNER: No, sir, your Honor. The entire 358
14:45:22 6 series.

14:45:24 7 THE COURT: So you're not going to have staggered
14:45:26 8 witnesses. They can all go right the whole.

14:45:29 9 MR. GARDNER: Your Honor, Special Agent Bill Johnston
14:45:34 10 with the DEA did all the search warrants for all the e-mail
14:45:37 11 accounts. So he's going to testify as to process of the search
14:45:40 12 warrants, how he identified the accounts. He's going to testify
14:45:42 13 as to how he received the accounts, how he printed out the
14:45:44 14 e-mails, how the government selected the e-mails. And he's
14:45:46 15 really only going to talk about three or four e-mails from one of
14:45:50 16 the accounts. The other e-mails will come in through probably
14:45:53 17 Special Agent Pennington or Special Agent Lawson.

14:45:57 18 So right now, today, with the exception of e-mails
14:46:00 19 pertaining directly to this witness and this account and one
14:46:04 20 other account, and the testimony of Special Agent Johnston as to
14:46:07 21 all the e-mails and three e-mails from the Fernando Garcia
14:46:12 22 account, those are the only specific e-mails the government's
14:46:15 23 going to address today. And I can point those out to Mr. Womack,
14:46:21 24 which he knows we're going to talk about as it relates to his
14:46:24 25 client's account.

14:46:26 1 THE COURT: And then, you can have the exhibits
14:46:31 2 available after.

14:46:33 3 MS. FERNALD: Absolutely.

14:46:35 4 THE COURT: You get through these two witnesses and
14:46:37 5 then, I can read them and make notes of other --

14:46:40 6 MR. GARDNER: Absolutely.

14:46:41 7 THE COURT: All right. I'll receive them. Y'all take
14:46:42 8 a break.

14:53:46 9 (Recess.)

14:59:29 10 THE COURT: All right. Counsel, let's get settled
14:59:31 11 here. I'm about ready to bring the jury in. Is there anything
14:59:42 12 else that you want to bring up right now?

14:59:52 13 (Jury present.)

15:01:45 14 THE COURT: You may proceed.

15:01:45 15 MR. GARDNER: Thank you, your Honor. Your Honor, I
15:01:47 16 believe we left off the government offers Exhibit 358H, as in
15:01:52 17 hotel.

15:01:52 18 THE COURT: And that is admitted.

15:01:55 19 Q. (BY MR. GARDNER) Mr. Quintero, when you arranged for the
15:02:03 20 training of horses with Mr. Nayen, how was the billing to be
15:02:13 21 conducted?

15:02:15 22 A. As far as when?

15:02:16 23 Q. Just in general, I'm sorry.

15:02:18 24 A. Oh, in general, just there were e-mails, through e-mails to
15:02:27 25 the e-mail address that's on there.

15:02:29 1 Q. And I'm showing you one of your e-mails, and this one is
15:02:34 2 dated on 12-3 of 2012, down here at the bottom. I'm sorry. That
15:02:46 3 is incorrect. This e-mail's from you; is that correct?

15:02:52 4 A. Yes, sir.

15:02:53 5 Q. And to who is this individual?

15:02:55 6 A. That's an e-mail for one of Mr. Colorado's accountants, I
15:02:59 7 think. I don't know who it is exactly.

15:03:01 8 Q. Have you ever met this individual?

15:03:03 9 A. To be honest, I don't think so.

15:03:05 10 Q. All right. And how did you obtain --

15:03:08 11 THE COURT: What is the date on it?

15:03:10 12 MR. GARDNER: Your Honor, the date is what has been --
15:03:13 13 I apologize, your Honor. This date here is the day it was
15:03:16 14 created by DEA. This date here, 12-13-2012, that's the date of
15:03:24 15 the e-mail, correct?

15:03:24 16 A. 2011.

15:03:25 17 Q. (BY MR. GARDNER) 2011. Excuse me.

15:03:27 18 THE COURT: That's what I thought. Pardon me.

15:03:29 19 Q. (BY MR. GARDNER) So who gave you this e-mail here,
15:03:41 20 miguel.almazan@gmail.com?

15:03:44 21 A. That one, Fernando Garcia did.

15:03:45 22 Q. Okay. Fernando Garcia provided you with that?

15:03:47 23 A. Yes, sir.

15:03:48 24 Q. Now, you've looked at these. Most of these e-mails are in
15:03:51 25 Spanish, correct?

15:03:51 1 A. Yes, sir.

15:03:52 2 Q. And there's a certified English translation behind it?

15:03:56 3 A. Yes, sir.

15:03:57 4 Q. In Spanish, talking that date right there, buenas noches,
15:04:05 5 Fernando Garcia, correct?

15:04:06 6 A. Yes, sir.

15:04:08 7 Q. And is Loose Perry one of your horses you were training for
15:04:24 8 Defendant Colorado?

15:04:26 9 A. Yes, sir.

15:04:26 10 Q. And what was Fernando Garcia's role in the training of
15:04:32 11 "Pancho" Colorado's horses?

15:04:33 12 A. At the moment, I would ask Fernando Garcia to see if he can
15:04:39 13 talk to Mr. Colorado because I had no communication with him.
15:04:41 14 And Mr. Colorado, at one time, owed me a good amount of money for
15:04:48 15 training them.

15:04:49 16 Q. In this case, \$71,000?

15:04:51 17 A. Yes, sir.

15:04:51 18 Q. How long did it take Mr. Colorado to accumulate that
15:04:55 19 particular bill?

15:04:56 20 A. That one there, I think it was about -- I'm saying about
15:05:03 21 six, seven months.

15:05:04 22 Q. And then, behind it, there's an attachment. Is this your
15:05:07 23 invoice?

15:05:07 24 A. Yes, sir.

15:05:09 25 Q. And, again, that's the training of Loose Perry, Mireyita

15:05:15 1 Cartel. Do you know how Mireyita Cartel was named?

15:05:17 2 A. No, sir.

15:05:20 3 Q. Do you know if it was named after anybody?

15:05:23 4 A. No, sir.

15:05:24 5 Q. And, again, the total at the bottom, 67,000?

15:05:28 6 A. Yes, sir.

15:05:28 7 Q. How were you reimbursed for the training of Loose Perry,

15:05:36 8 Mireyita Cartel, and the other horse listed on that statement?

15:05:41 9 A. The way I was reimbursed was through a couple of wire

15:05:44 10 transfers from Mr. Colorado, and the bill was kept on

15:05:53 11 accumulating. At the end, the final amount I was paid off to me

15:05:56 12 was from Mr. Nayen and was paid in cash by him.

15:05:59 13 Q. Mr. Quintero, I'm showing you another e-mail, dated November

15:06:06 14 12th of 2011. This is from Fernie004@hotmail.com?

15:06:14 15 A. Yes, sir.

15:06:14 16 Q. And who did you know that to be associated with?

15:06:17 17 A. Fernando Garcia.

15:06:17 18 Q. And, again, that's your e-mail, correct?

15:06:20 19 A. Yes, sir.

15:06:21 20 Q. In Spanish. And on the back, there's an English

15:06:24 21 translation. I'll go to that.

15:06:28 22 THE COURT: There's nothing on that.

15:06:32 23 Q. (BY MR. GARDNER) Thank you, your Honor.

15:06:35 24 And sending you the transfer format. Then we see the

15:06:40 25 attachment. It is a blank AQHA transfer form. Did you ever know

15:06:49 1 or meet a Jorge Luis Ochoa-Gomez?

15:06:52 2 A. No, sir.

15:06:53 3 Q. Okay. What were you instructed to do with this blank

15:06:57 4 transfer form?

15:06:57 5 A. To be honest, I don't remember ever receiving this transfer.

15:07:02 6 Q. Did you receive other transfer forms that were also blank

15:07:05 7 except for the owner?

15:07:06 8 A. No, sir.

15:07:07 9 Q. Approximately how many horses do you believe you trained for

15:07:18 10 Defendant Colorado?

15:07:18 11 A. From Mr. Colorado at one time, I believe I trained about

15:07:22 12 from 10 to 14. Don't remember the exact amount.

15:07:25 13 Q. Have you also trained horses for Carlos Nayan?

15:07:29 14 A. At the moment, no, I didn't.

15:07:31 15 Q. At some point, did you train horses for Carlos Nayan?

15:07:35 16 A. Yes, sir, I did.

15:07:36 17 Q. And how were those billed?

15:07:37 18 A. I actually came -- I did a deal with him and he would pay me

15:07:44 19 in cash for these horses.

15:07:45 20 Q. Did you also fill out billing statements for him?

15:07:47 21 A. No, sir.

15:07:53 22 Q. I want to turn your attention to March 27th of 2012. Were

15:08:01 23 you present at the Los Alamitos race track? Let me ask you this.

15:08:07 24 A. Probably. I won't remember.

15:08:09 25 Q. You won't remember the dates?

15:08:10 1 A. Yeah.

15:08:11 2 Q. Were you present when law enforcement arrested you on that
15:08:13 3 date?

15:08:13 4 A. Oh, yes. Yes. Yes.

15:08:16 5 Q. Not too hard to forget.

15:08:20 6 A. No.

15:08:21 7 Q. And who were you with that day?

15:08:22 8 A. That day, I was with Carlos Nayen, Luis Guerrera and Luis
15:08:31 9 Gerardo Aguirre, and my father was present, my uncle was present,
15:08:34 10 and I think another assistant trainer for someone else was
15:08:39 11 present. We were just -- it was six of us that were handcuffed
15:08:43 12 at the time.

15:08:43 13 Q. And Luis Gerardo Aguirre, how did you meet him?

15:08:47 14 A. Through Carlos Nayen.

15:08:49 15 Q. And what did you understand his role to be or his job?

15:08:53 16 A. Well, his role was -- what I understood was he used to go to
15:08:58 17 the sales to buy clean horses, yearlings, and take them back to
15:09:07 18 Mexico and sell them for a greater price.

15:09:09 19 Q. Did you see him at any of the auctions buying his cheaper
15:09:12 20 horses?

15:09:12 21 A. Yes, sir, I did.

15:09:14 22 Q. I want to turn your attention to December of 2011. Were you
15:09:20 23 present with Mr. Aguirre when he attempted to deposit a check in
15:09:25 24 a bank?

15:09:25 25 A. Yes, sir. I was.

15:09:26 1 Q. Could you tell the ladies and gentlemen of the jury about
15:09:28 2 that incident?

15:09:31 3 A. I was asked to go into the bank with Mr. Aguirre and deposit
15:09:35 4 a check that he had for -- I don't remember the exact amount, but
15:09:39 5 it was a little bit over 100,000.

15:09:41 6 Q. And do you remember what the -- who the check was from?

15:09:44 7 A. No, sir. I do not remember.

15:09:46 8 Q. And do you remember what the check was for?

15:09:47 9 A. I kind of overheard a conversation saying it was for a batch
15:09:51 10 of mares.

15:09:52 11 MS. WILLIAMS: Objection.

15:09:53 12 Q. (BY MR. GARDNER) And who was making the conversation?

15:09:55 13 A. Excuse me?

15:09:56 14 Q. Who was conversing? Who was talking to you?

15:09:58 15 A. Nayen and Aguirre.

15:10:00 16 Q. And what was the substance of the conversation?

15:10:03 17 A. I just -- I kind of overheard just the whole fact that it
15:10:08 18 was a batch of mares that he had sold.

15:10:11 19 Q. Now, I want to go back to the raid in which you were
15:10:16 20 arrested. After the raid, did you start receiving a number of
15:10:20 21 e-mails?

15:10:21 22 A. Yes, sir, I did.

15:10:24 23 Q. Showing you an e-mail dated -- apologize, your Honor. Your
15:10:29 24 Honor, with respect to Government's Exhibit 358G, approach the
15:10:37 25 witness. You and I have gone through the e-mails that relates

15:10:41 1 specifically to you, correct?

15:10:42 2 A. Yes, sir.

15:10:43 3 Q. Are these e-mails related to the incident surrounding your
15:10:50 4 arrest at the track?

15:10:51 5 A. Yes, sir.

15:10:51 6 Q. Your Honor, for the limited purpose of 358G, I would offer
15:10:55 7 with regard to this witness' e-mails. I'll identify those as I
15:11:01 8 go along.

15:11:01 9 THE COURT: Okay.

15:11:04 10 MR. GARDNER: Or without objection, I could tender the
15:11:06 11 whole Exhibit 358G.

15:11:11 12 MR. WOMACK: No objection, your Honor.

15:11:12 13 THE COURT: All right. 358G is admitted.

15:11:15 14 Q. (BY MR. GARDNER) So we heard testimony from Kyle Mori that
15:11:20 15 the raid occurred on the 27th of March. This e-mail was dated on
15:11:24 16 March 29th and the time is important, 7:25 p.m.

15:11:32 17 Do you know who A-N-R-I or Anri2319@hotmail is?

15:11:38 18 A. At the moment, I thought it was an accountant for the
15:11:42 19 horses.

15:11:44 20 Q. Have you ever met the person associated with that account?

15:11:46 21 A. No, sir.

15:11:46 22 Q. Did anybody ever give you that e-mail account before?

15:11:51 23 A. Don't recall, sir.

15:11:53 24 Q. And I'm just going to go to the English translation. What's
15:12:06 25 going on old man? Why aren't you all answering? What's going

15:12:09 1 on? Let me know.

15:12:12 2 Did you know what that individual was talking about
15:12:14 3 that time?

15:12:15 4 A. Excuse me?

15:12:15 5 Q. Did you know what this individual was asking you about at
15:12:18 6 this time?

15:12:18 7 A. No. I didn't.

15:12:22 8 Q. The next e-mail is at 8:03 p.m. on the same date and when I
15:12:38 9 go to the translation. This is an e-mail from you, correct?

15:12:44 10 A. Yes, sir.

15:12:45 11 Q. In reply to that Anri address?

15:12:48 12 A. Yes, sir.

15:12:48 13 Q. And what are you telling him here?

15:12:51 14 A. I told him that I didn't know what was happening, but we
15:12:54 15 were stopped by a group of police, federal agents to say that
15:12:59 16 they're looking for some guy by the name of Bosquez.

15:13:04 17 Q. Was this in relation to the raid in which you were arrested
15:13:07 18 two days prior?

15:13:07 19 A. Yes, sir. I mean, Omar. I'm sorry.

15:13:10 20 Q. Omar?

15:13:10 21 A. Yes, sir.

15:13:13 22 Q. Same date, 35 minutes later, at 8:38 p.m. And below is your
15:13:30 23 original e-mail, correct, the one we just talked about 35 minutes
15:13:36 24 earlier?

15:13:36 25 A. Yes, sir.

15:13:36 1 Q. And is this the response you received from Anri?

15:13:41 2 A. Yes, sir.

15:13:42 3 Q. Who's the kid?

15:13:44 4 A. The kid was referred to Carlos Nayen.

15:13:47 5 Q. Okay. You heard him referred to that or do you refer to him

15:13:51 6 by that?

15:13:51 7 A. Yeah. I've heard people referred to him as "Chamaco" in

15:13:57 8 Spanish.

15:13:57 9 Q. "Chamaco"?

15:13:58 10 A. Yes, sir.

15:13:59 11 Q. How old is Carlos Nayen?

15:14:00 12 A. About 26. Don't know his exact age.

15:14:04 13 Q. And when it talks about device, did you know what he was

15:14:09 14 talking about?

15:14:09 15 A. I have no idea what he was talking about.

15:14:12 16 Q. And did you know why Carlos Nayen -- I assume Carlos Nayen,

15:14:15 17 the kid and the dude are the same, right?

15:14:17 18 A. Yes, sir.

15:14:18 19 Q. And it says, people are concerned. Did you have any idea

15:14:23 20 which people was being referred to?

15:14:24 21 A. No, sir.

15:14:28 22 Q. Do you know what he was referring to when he talked about a,

15:14:31 23 quote, unquote, safe number?

15:14:33 24 A. No, sir. I didn't.

15:14:39 25 Q. And here's an e-mail, six minutes later, on the same day.

15:14:48 1 This is your response, correct?

15:14:49 2 A. Yes, sir.

15:14:50 3 Q. Why did you make that response?

15:14:52 4 A. Because I had no idea what he was talking about.

15:14:56 5 Q. Pretty much what it says, right?

15:15:01 6 A. Yes, sir.

15:15:02 7 Q. E-mail at 8:45 p.m., few minutes later. Sweetie, tell the
15:15:21 8 kid to please contact me. Let me know something is going on.

15:15:25 9 Let me back up one second.

15:15:38 10 Did you know what this person Anri was talking about
15:15:42 11 wanting you to let him know something?

15:15:43 12 A. He wanted me to let him know why he couldn't get a hold of
15:15:47 13 Carlos.

15:15:53 14 Q. And the next e-mail at 8:49 p.m. on the same date. This is
15:16:04 15 your response on Tuesday: My son was ill. Seems like he had a
15:16:08 16 stomach virus but he's fine now. Just had a slight fever. Take
15:16:11 17 care.

15:16:13 18 What are you saying there?

15:16:14 19 A. I was receiving e-mails and e-mails from this person, and on
15:16:21 20 that Tuesday, when I got arrested, my son was ill and I was just
15:16:25 21 nervous about this whole incident. And I -- you know, I e-mailed
15:16:29 22 him this without even, you know, thinking about it.

15:16:32 23 Q. Is it pretty obvious to you at this time this person wants
15:16:35 24 to know and get a hold of Carlos Nayan?

15:16:37 25 A. Yes, sir.

15:16:37 1 Q. 10:22 p.m. on the same date. This is the e-mail from
15:16:56 2 Anri2319 to you, correct?

15:16:57 3 A. Yes, sir.

15:17:01 4 THE COURT: 2:00 p.m. on what date?

15:17:03 5 MR. GARDNER: I apologize, your Honor. It is March
15:17:05 6 29th at 10:22 p.m.

15:17:09 7 THE COURT: Ten?

15:17:10 8 MR. GARDNER: Yes, sir.

15:17:18 9 Q. (BY MR. GARDNER) 3-29, same date, at 10:42 p.m., 20 minutes
15:17:26 10 later, from Anri3219 to you. Were you given the cell or not? I
15:17:41 11 need you to answer me. Did you give it to Guero? Who is Guero?

15:17:45 12 A. It's Carlos Nayan, also.

15:17:47 13 Q. Is he sort of a light-complected individual?

15:17:50 14 A. Yes, sir.

15:17:50 15 Q. Now, when you're talking or when Anri2319 is talking about
15:17:54 16 the cell, did Carlos Nayan ever give you a cell?

15:17:58 17 A. No, sir, he didn't.

15:17:59 18 Q. Did he ever mention anything about a safe number?

15:18:02 19 A. No, sir, he did not.

15:18:06 20 Q. Do you know where Carlos Nayan is at this time?

15:18:08 21 A. I believe he's arrested.

15:18:10 22 Q. Okay. Is he still in custody?

15:18:11 23 A. Yes, sir. He is.

15:18:22 24 Q. We have the next e-mail at 10:53 p.m. on 3-29. You respond,
15:18:40 25 Cata?

15:18:42 1 A. Yeah.

15:18:42 2 Q. What's that mean?

15:18:43 3 A. I told him to get a hold of the groom that worked for Nayen
15:18:47 4 at the moment.

15:18:47 5 Q. So were you directing this Anri to get a hold of this
15:18:50 6 individual?

15:18:50 7 A. Yes. I really didn't want to talk with him anymore.

15:18:54 8 Q. And this is his response?

15:18:56 9 A. Yes, sir.

15:19:02 10 Q. And the next e-mail, approximately two minutes later on the
15:19:05 11 same date at 10:55 p.m., you give the full name, call Catalan?

15:19:22 12 A. Yes, sir.

15:19:23 13 Q. Same number, correct?

15:19:24 14 A. Yes, sir.

15:19:25 15 Q. The next e-mail, approximately 50 minutes later on the same
15:19:32 16 date, at 11:49 p.m. from Anri to you, his response, Catalin has
15:19:41 17 turned it off?

15:19:42 18 A. Catalan. Yeah.

15:19:45 19 Q. Catalan. Have you ever talked to Catalan?

15:19:46 20 A. After this incident?

15:19:48 21 Q. Not after this, before.

15:19:49 22 A. Before, yeah. I knew him.

15:19:51 23 Q. Were you aware whether or not he had his phone on or off?

15:19:54 24 A. No, sir.

15:19:56 25 Q. And finally, the last e-mail, the many in this string, dated

15:20:01 1 early morning hours of March 30th, 12:28 a.m. from Anri to you.

15:20:29 2 Old man, please, tell me for real what is happening. I won't

15:20:32 3 write you again. These devices are clean.

15:20:37 4 This time, he says devices instead of device. Were you

15:20:41 5 aware of any devices that Carlos Nayan would use?

15:20:44 6 A. No, sir.

15:20:44 7 Q. How would Carlos Nayan communicate? What would he use for a
15:20:48 8 phone?

15:20:48 9 A. I actually got a phone for him under my name, the Sprint

15:20:55 10 ones, and I would also buy him BlackBerry phones.

15:21:02 11 Q. And why couldn't Carlos Nayan buy his own BlackBerry phones?

15:21:06 12 A. I assume he didn't know where to buy them and I was from the
15:21:10 13 area, and he would just ask me if I can buy them for him.

15:21:15 14 Q. One moment, your Honor.

15:21:23 15 He says he could toss it. Did you ever have any

15:21:30 16 discussions with Carlos Nayan after this string of e-mails?

15:21:35 17 A. No. I actually cut all friendship with him, everything. At

15:21:42 18 the time I was training for him at my barn, and after this whole

15:21:45 19 incident when I found out that federal agents were asking about

15:21:49 20 him, I kicked him out of my barn.

15:21:52 21 Q. And you were arrested with everyone else in June of last
15:21:55 22 year?

15:21:55 23 A. In June of 2012. Yes.

15:21:57 24 Q. May I have one moment, your Honor?

15:22:07 25 Your Honor, my co-counsel has informed me that I've

15:22:13 1 transposed the numbers. So I just want to make sure that the
15:22:17 2 Government's Exhibit 358G refers to the A-N-R-I 2319 at
15:22:25 3 hotmail.com. And with that, your Honor, I pass the witness.

15:22:31 4 MS. WILLIAMS: No questions.

15:22:55 5 MR. DEGEURIN: May it please the Court.

15:22:57 6 THE COURT: Yes, sir.

15:22:57 7 CROSS-EXAMINATION

15:22:57 8 BY MR. DEGEURIN:

15:23:03 9 Q. Mr. Quintero, did you own horses yourself?

15:23:09 10 A. Yes, sir. I do.

15:23:10 11 Q. And your father owns horses?

15:23:12 12 A. Yes, sir.

15:23:13 13 Q. That's two generations. Do you go back three generations?

15:23:18 14 A. No, sir.

15:23:18 15 Q. And did your father know Mr. Colorado?

15:23:26 16 A. After I started training them, I introduced him to
15:23:32 17 Mr. Colorado.

15:23:32 18 Q. Okay. And you knew that Mr. Colorado was having some really
15:23:38 19 fine horses before you met Mr. Colorado?

15:23:41 20 A. Yes, sir, I did.

15:23:42 21 Q. One of them was Mr. Loose Perry, or Loose Perry was the name
15:23:48 22 of the horse?

15:23:48 23 A. Yes, sir.

15:23:50 24 Q. And was Mr. Perry raced in Mexico as well as United States?

15:23:56 25 A. Yes, sir, he did.

15:23:57 1 Q. Was he raced in New Orleans?

15:24:00 2 A. Yes, sir, he did.

15:24:01 3 Q. Did you go to the race in New Orleans that Mr. Perry raced?

15:24:05 4 A. Yes. I actually took a horse out there myself, and I was
15:24:08 5 already training for Mr. Colorado at the moment.

15:24:13 6 Q. You named a few horses that you were training for

15:24:17 7 Mr. Colorado. Do you recall them offhand?

15:24:19 8 A. I can try.

15:24:23 9 Q. At one point, you were training maybe as many as 10 or 15
15:24:29 10 horses, right?

15:24:30 11 A. Yes, sir.

15:24:31 12 Q. For Mr. Colorado?

15:24:32 13 A. Yes, sir.

15:24:33 14 Q. You had other horses you were training for other people,
15:24:38 15 other owners?

15:24:39 16 A. Yes, sir.

15:24:40 17 Q. So how many horses in all? I mean, the other owners
15:24:44 18 together with Mr. Colorado's plus your own, how many were you
15:24:47 19 training?

15:24:47 20 A. I had about 25 horses or more.

15:24:52 21 Q. And you'd send -- and was Mr. Nayen -- did he accept
15:24:58 22 responsibility of taking care of Mr. Colorado's invoices and send
15:25:04 23 them to him?

15:25:04 24 A. The only time Mr. Nayen said he would take care of
15:25:08 25 Mr. Colorado's invoice was after the fact that I wasn't getting

15:25:12 1 paid, and I needed to release those horses to Mr. Colorado
15:25:16 2 because Mr. Colorado had entered those horses in races in Mexico.
15:25:22 3 And he took full -- what's the -- I'm sorry, he said that he
15:25:29 4 would take care of that bill if Mr. Colorado didn't pay me.
15:25:33 5 Q. Because Mr. Nayan knew Mr. Colorado?
15:25:35 6 A. Yes, sir. That's what I understand.
15:25:36 7 Q. And so, he -- basically he said, I will get Mr. Colorado's
15:25:44 8 attention?
15:25:44 9 A. If Mr. Colorado doesn't finish paying you, I will pay you.
15:25:46 10 Q. All right. May I have a moment?
15:25:58 11 You'd recognize Loose Perry if you saw him?
15:26:00 12 A. Yes. Definitely.
15:26:02 13 Q. Is that?
15:26:04 14 A. Yes, sir.
15:26:08 15 Q. All right. Just for demonstrative purposes. This will be
15:26:20 16 just for demonstrative purposes.
15:26:23 17 THE COURT: All right. Ms. Sims, what is Defendant
15:26:28 18 Colorado Exhibit what?
15:26:30 19 THE CLERK: It will be 8.
15:26:31 20 THE COURT: Nine?
15:26:32 21 THE CLERK: Eight.
15:26:33 22 THE COURT: We've got 8.
15:26:36 23 MR. DEGEURIN: Nine.
15:26:38 24 THE CLERK: We've got 8?
15:26:39 25 THE COURT: Seven and 8. Well, I don't have a

15:26:46 1 description on it, though. We'll have Colorado 9, and we'll
15:26:53 2 figure out if we've got 8 later.

15:26:55 3 Q. (BY MR. DEGEURIN) All right. Is this -- to some of us, all
15:27:03 4 horses look alike. But you wouldn't have trouble recognizing
15:27:06 5 Loose Perry?

15:27:07 6 A. Oh, yeah.

15:27:08 7 Q. Do you recognize the other?

15:27:11 8 A. Yes, I do. Yeah, I recognize them.

15:27:14 9 Q. Did you train those horses?

15:27:16 10 A. I just trained Rebas Corona.

15:27:20 11 Q. Rebas Corona?

15:27:22 12 A. Yes, sir.

15:27:23 13 Q. And Maestro Corona, you did not?

15:27:29 14 A. Never seen that one, sir.

15:27:33 15 Q. And are you familiar with Flor de Maria?

15:27:37 16 A. Yeah. I believe that was Mr. Colorado's barn in Mexico.

15:27:48 17 Q. Was -- how many times did you actually get to meet and talk
15:27:54 18 with Mr. Colorado?

15:27:58 19 A. I would say about four or five times since we started doing
15:28:04 20 business with each other.

15:28:06 21 Q. In California?

15:28:09 22 A. Actually, the first time I met Mr. Colorado was in New
15:28:12 23 Mexico. That's where I was introduced to him by Mr. Nayan. And
15:28:15 24 then, the other three times were in California when he would go
15:28:20 25 down and watch his horses run at the Los Alamitos.

15:28:26 1 Q. You didn't see him in New Orleans?

15:28:28 2 A. You're right. Yes. I did speak to him in New Orleans.

15:28:31 3 Yes.

15:28:33 4 Q. All right. I pass the witness.

15:28:38 5 CROSS-EXAMINATION

15:28:38 6 BY MR. WOMACK:

15:28:41 7 Q. Thank you, your Honor.

15:28:42 8 Good afternoon, Mr. Quintero.

15:28:46 9 A. Good afternoon.

15:28:46 10 Q. I'm Guy Womack from Houston. I represent Fernando Garcia.

15:28:51 11 And you know Fernando, you've told us?

15:28:53 12 A. Oh, yeah. Yes, sir.

15:28:55 13 Q. First thing I want to ask you about are these e-mails we

15:28:57 14 were seeing from this Anri. You know those did not come from

15:29:01 15 Fernando Garcia?

15:29:01 16 A. Yes, sir, I do. That didn't come from him.

15:29:04 17 Q. They did not?

15:29:05 18 A. They did not come from him.

15:29:06 19 Q. Now, I want to talk to you about horse racing.

15:29:09 20 A. Yes, sir.

15:29:09 21 Q. You've known Fernando Garcia for several years?

15:29:15 22 A. Oh, yeah.

15:29:16 23 Q. And you know that he buys and sells horses?

15:29:19 24 A. Yes, sir.

15:29:20 25 Q. That he has a company called Garcia Bloodstock and Racing?

15:29:22 1 A. Yes, sir.

15:29:23 2 Q. You know that he also represents many other buyers and
15:29:28 3 helping them pick horses to buy?

15:29:29 4 A. Yes, sir.

15:29:30 5 Q. You know he trains horses?

15:29:32 6 A. Yes, sir.

15:29:33 7 Q. As part of representing people, he may also hire other
15:29:36 8 trainers to take care of horses?

15:29:39 9 A. Yes, sir.

15:29:40 10 Q. In fact, has he hired you before to train horses?

15:29:43 11 A. Yes, sir.

15:29:43 12 Q. Now, I want to talk to you, in particular, about this
15:29:50 13 Ruidoso, the trial, the qualifying races for the All American
15:29:58 14 Futurity in 2010. You recall that period of time?

15:30:04 15 A. Excuse me?

15:30:05 16 Q. You recall that period of time? You remember that race?

15:30:07 17 A. Oh, yes.

15:30:08 18 Q. And you had a horse that you wanted to enter in the trials
15:30:13 19 to qualify for the All American?

15:30:15 20 A. Yes, sir, I did.

15:30:15 21 Q. And you were -- well, you actually live in California, don't
15:30:20 22 you?

15:30:20 23 A. Yes.

15:30:22 24 Q. And you wanted to bring your horse out early?

15:30:25 25 A. Yeah.

15:30:25 1 Q. To New Mexico?

15:30:26 2 A. Yes. I wanted to bring her out a month and a half prior to
15:30:29 3 the trials to the owner.

15:30:30 4 Q. Tell the jury why would you want to bring your horse out
15:30:33 5 early.

15:30:33 6 A. Why would I want to bring it out early?

15:30:35 7 Q. Yeah.

15:30:35 8 A. To get her adapted to the altitude of Ruidoso because it's
15:30:38 9 so high above sea level. Acclimate her.

15:30:46 10 Q. So you see it has an advantage, don't you?

15:30:48 11 A. Yes.

15:30:49 12 Q. If you could bring the horse out and have it running and
15:30:51 13 training in the same environment, same climate, altitude and
15:30:56 14 everything that it would be racing at?

15:30:57 15 A. Yes.

15:30:58 16 Q. And the All American Futurity is the biggest quarter horse
15:31:03 17 race in America?

15:31:05 18 A. It's -- yeah. It's considered like the Kentucky Derby of
15:31:10 19 quarter horses.

15:31:11 20 Q. Yeah. And when I talk about trials, are the trials the
15:31:15 21 races that you must run to qualify for the big race?

15:31:18 22 A. Yes.

15:31:20 23 Q. Tell the jury, how many horses would have entered -- or that
15:31:25 24 year, how many horses entered the trials to try to make it to the
15:31:30 25 All American?

15:31:30 1 A. It was about 200, 220.

15:31:34 2 Q. And of these 200 or 220 horses, when y'all race in the
15:31:40 3 trials, there would be ten horses on the track at one time,
15:31:43 4 right?

15:31:44 5 A. Running, you mean?

15:31:45 6 Q. Yeah. At trial?

15:31:46 7 A. Yes, sir.

15:31:50 8 Q. So if you had 220 horses, the trials would actually be 22
15:31:54 9 different races, each of ten horses.

15:31:56 10 A. Yes, sir.

15:31:58 11 Q. And the horses that were selected from the trials that went
15:32:04 12 on to the big race, these were the top ten finishing times; is
15:32:11 13 that correct?

15:32:11 14 A. Yes, sir.

15:32:12 15 Q. So theoretically, if you have one heat or one race and all
15:32:18 16 ten horses were the very fastest in time, that would have been
15:32:22 17 all the competitors in the big race?

15:32:23 18 A. Yes, sir.

15:32:25 19 Q. Winning your heat in a trial wouldn't guarantee you making
15:32:31 20 it to the big race.

15:32:32 21 A. No, sir.

15:32:32 22 Q. It was based on your time?

15:32:34 23 A. Yes, sir.

15:32:35 24 Q. Okay. And when you came out to New Mexico to train and to
15:32:44 25 get ready for the All American trials, you -- I was tackled by

15:32:53 1 the government.

15:32:55 2 MR. GARDNER: I'm guilty as charged, your Honor.

15:32:58 3 Q. (BY MR. WOMACK) You had to -- well, you stabled your horse
15:33:02 4 at Garcia Bloodstock's barn where Mr. Piloto was being stabled?

15:33:07 5 A. Yes, sir.

15:33:08 6 Q. So you actually saw Mr. Piloto there.

15:33:12 7 A. Him and other horses, yes, sir, I did.

15:33:15 8 Q. And you knew at that time, Fernando Garcia actually owned
15:33:19 9 Mr. Piloto?

15:33:20 10 A. Yes, sir.

15:33:21 11 Q. And Fernando Garcia was the one principally primarily
15:33:28 12 training Mr. Piloto, correct?

15:33:29 13 A. Yes, sir.

15:33:29 14 Q. But you said you gave him some advice on some things you do,
15:33:32 15 as well?

15:33:33 16 A. Yes, I did.

15:33:33 17 Q. And that was because you were trying to help him do as well
15:33:39 18 as he could with his horse?

15:33:40 19 A. Yeah. And, I mean, it also looked good for me.

15:33:45 20 Q. Now, at the trials, you know that Mr. Piloto won his heat of
15:33:55 21 the trials.

15:33:56 22 A. Yes, sir.

15:33:58 23 Q. And he won by about half a length, didn't he? Or do you
15:34:02 24 remember?

15:34:02 25 A. I don't remember, to be honest. I know he won his trial.

15:34:05 1 Q. Okay. But as it was, his time was tenth of those 220
15:34:12 2 horses?

15:34:13 3 A. Yes, sir, it was.

15:34:14 4 Q. So the horses that qualified for the main event, the biggest
15:34:20 5 race in quarter horse racing, is horse -- Mr. Piloto is actually
15:34:24 6 the slowest one that made it to the final?

15:34:27 7 A. Yes.

15:34:27 8 Q. Now, have you been to a lot of horse races?

15:34:30 9 A. Yes, I have.

15:34:31 10 Q. Have you noticed that very often, a horse that wins is not
15:34:35 11 the favorite horse?

15:34:36 12 A. Normally the fastest qualifier is usually -- not always but
15:34:43 13 usually tends to be the favorite in the race.

15:34:45 14 Q. And among horses, we have the ten fastest quarter horses in
15:34:49 15 America, the ten that qualify, any of those ten have a chance of
15:34:53 16 winning?

15:34:54 17 A. Oh, yeah.

15:34:55 18 Q. But you would expect that the top qualifier would be up near
15:34:59 19 the front somewhere?

15:35:00 20 A. Yes, sir.

15:35:00 21 Q. So you know that the trial, trials, the 22 of them, they
15:35:09 22 were held three weeks before the All American Futurity, correct?

15:35:16 23 A. About, yes, sir.

15:35:17 24 Q. Okay. And so, for those last three weeks, the owners, the
15:35:24 25 trainers of those ten fastest horses were devoting everything to

15:35:29 1 getting ready for that big race?

15:35:31 2 A. Yes, sir.

15:35:33 3 Q. And you know that during that three-week interim -- well,
15:35:38 4 you learned later, Fernando Garcia actually sold Mr. Piloto for a
15:35:43 5 profit to Jose Trevino?

15:35:47 6 A. Yes, sir.

15:35:49 7 Q. And you were hired, because you're a licensed trainer, to
15:35:54 8 come in to be what you call the program trainer?

15:35:57 9 A. Yes, sir.

15:35:58 10 Q. And that means you're the trainer who would be listed in the
15:36:01 11 program for the race?

15:36:02 12 A. Yes, sir.

15:36:02 13 Q. And every one of us if we were there watching the race or
15:36:05 14 bought a program, we'd see that you were the listed trainer for
15:36:09 15 Mr. Piloto?

15:36:10 16 A. Yes, sir.

15:36:11 17 Q. And if he did really well, that would look really good for
15:36:14 18 you, wouldn't it?

15:36:15 19 A. Yes, sir.

15:36:16 20 Q. I mean, certainly it enhances your credentials to say, oh,
15:36:20 21 by the way, my horse won the biggest race in America?

15:36:23 22 A. Yes, sir.

15:36:24 23 Q. Okay. And Mr. Piloto did win, didn't he?

15:36:29 24 A. Yes, he did.

15:36:30 25 Q. We've actually seen the videotape of that race and you

15:36:35 1 recall seeing the race, don't you?

15:36:36 2 A. Yes, I do.

15:36:37 3 Q. To win a race like that, to win one where you had to

15:36:48 4 overtake the field the way Mr. Piloto did, it takes raw speed,

15:36:53 5 doesn't it?

15:36:55 6 A. Yes.

15:36:57 7 Q. And just like a human athlete that's racing, it appears the

15:37:03 8 horse knows that it should try to win the race, correct?

15:37:05 9 A. Yes.

15:37:06 10 Q. And you'll see horses that will give everything they have to

15:37:09 11 eke out a victory, however close?

15:37:11 12 A. Yes.

15:37:12 13 Q. And you saw Mr. Piloto do that?

15:37:14 14 A. Yes, I did.

15:37:15 15 Q. Now, after Mr. Piloto won the All American Futurity, the

15:37:27 16 owner, the trainer, people associated with his victory received

15:37:33 17 awards, didn't they?

15:37:34 18 A. Yes, they did.

15:37:35 19 Q. One of the awards for the trainer would be a monetary prize

15:37:41 20 for training the winning horse?

15:37:42 21 A. Yes.

15:37:43 22 Q. You'd also get your picture made in the winner's circle with

15:37:48 23 a champion?

15:37:49 24 A. Yes.

15:37:51 25 Q. And, again, that's something you could put in ads, you could

15:37:53 1 post it at your stable. You could share, oh, by the way, this is
15:37:58 2 me with Mr. Piloto, who I trained who won the biggest race horse
15:38:00 3 in America?

15:38:02 4 A. Yes.

15:38:02 5 Q. Okay. And you also got a belt buckle that said you trained
15:38:08 6 the winning horse, correct?

15:38:10 7 A. Yes, sir.

15:38:11 8 Q. Tell the jury what you did with that belt buckle.

15:38:14 9 A. I gave it to Fernando Garcia.

15:38:15 10 Q. You gave it to Fernando because you -- actually, he's the
15:38:18 11 one that really did most of the actual training?

15:38:20 12 A. Yes, sir.

15:38:20 13 Q. And you felt that would be appropriate?

15:38:22 14 A. Yes, sir.

15:38:22 15 Q. Now, a futurity is a horse race for two-year-olds; is that
15:38:33 16 right?

15:38:33 17 A. Yes, it is.

15:38:34 18 Q. And the racing life of a horse, is it normally two years?
15:38:42 19 Ages two and three?

15:38:43 20 A. What do you mean?

15:38:46 21 Q. The career of a race horse. I mean, other things equal,
15:38:49 22 let's assume they don't win a big race. If a horse is racing and
15:38:52 23 racing and racing, they run as two-year-olds and three-year-olds;
15:38:56 24 is that correct?

15:38:56 25 A. They run till -- there's horses that are eight,

15:39:00 1 nine-year-old running.

15:39:01 2 Q. Fast horses or not?

15:39:02 3 A. Yeah. The Champions, it's another prestigious race is

15:39:07 4 composed of horses four-year-olds and upward. It doesn't have an

15:39:10 5 age limit.

15:39:11 6 Q. But compared to the life of a horse, would you agree that

15:39:14 7 its racing life is a fairly small percentage of its overall life?

15:39:19 8 A. Yes.

15:39:20 9 Q. Because a race horse, like saddle horses, may live to be 25?

15:39:24 10 A. Yes.

15:39:26 11 Q. If a horse wins a really big race, like the biggest race in

15:39:33 12 America, you have noticed that oftentimes that horse will retire

15:39:38 13 from racing, correct?

15:39:39 14 A. Yes.

15:39:39 15 Q. Tell the jury why a horse would retire after winning the

15:39:42 16 biggest race in America.

15:39:44 17 A. Retires because it's -- I mean, the prestige of the horse is

15:39:48 18 -- the last thing you remember is the horse winning the biggest

15:39:51 19 race in quarter horse history.

15:39:53 20 Q. And when a horse retires, do we turn it into glue and dog

15:39:58 21 food or feed it to the British at Burger King? Or does he start

15:40:06 22 breeding?

15:40:06 23 A. It all depends.

15:40:07 24 Q. If it's a stallion?

15:40:08 25 A. If it's a stallion, obviously you could start breeding.

15:40:11 1 Q. And a champion horse, let's say he won the biggest race in
15:40:16 2 America and he's only two years old, he can breed and make money
15:40:23 3 for his owner until he dies.

15:40:27 4 A. Yes.

15:40:28 5 Q. So that could go on for another 23 years or so?

15:40:31 6 A. Yes, sir.

15:40:33 7 Q. And you know that Mr. Piloto was sired by Mr. Jess Perry.
15:40:42 8 You know that?

15:40:42 9 A. Yes, sir.

15:40:43 10 Q. And Mr. Jess Perry is a famous horse for breeding purposes?

15:40:49 11 A. Yes, sir.

15:40:50 12 Q. The dam in that case was Ms. Pilot Point or Pilot's Point.
15:41:00 13 She is a very famous mare quarter horse racing?

15:41:06 14 A. Yes.

15:41:07 15 Q. And so, if someone were looking at a horse to use for
15:41:14 16 breeding, a stallion to breed their mare with, if you know the
15:41:19 17 particular horse -- is the foal or the offspring of Mr. Jess
15:41:28 18 Perry and Ms. Pilot's Point, if you know nothing else about a
15:41:35 19 horse, you would think a horse should have -- that offspring
15:41:37 20 should have some potential as a breeding stallion, correct?

15:41:40 21 A. Yes.

15:41:41 22 Q. And if you also hear that, oh, by the way, that horse won
15:41:47 23 the All American Futurity, you would think, well, that should be
15:41:50 24 a really valuable horse for breeding?

15:41:52 25 A. Yes. That is.

15:41:55 1 Q. Because having won the All American Futurity, it's proof
15:42:00 2 that those genetics for speed and that personality to win were
15:42:07 3 passed on from Mr. Jess Perry and Ms. Pilot's Point to
15:42:14 4 Mr. Piloto?

15:42:14 5 A. Yes.

15:42:16 6 Q. So if you're looking to breed your mare or a mare with a
15:42:22 7 stallion, Mr. Piloto should be pretty high on the list, shouldn't
15:42:29 8 he?

15:42:29 9 A. Yes.

15:42:30 10 Q. Okay. And we've heard testimony about Corona Cartel. You
15:42:34 11 know of Corona Cartel?

15:42:35 12 A. Yes. I do.

15:42:36 13 Q. That's another great horse, isn't it?

15:42:38 14 A. Yes.

15:42:39 15 Q. You know Bruce Wise?

15:42:42 16 A. Who?

15:42:43 17 Q. Bruce Wise with the -- Butch Wise?

15:42:46 18 A. Butch.

15:42:46 19 Q. Butch Wise with the Lazy E Ranch?

15:42:50 20 A. Yes, I do.

15:42:51 21 Q. He's already testified. Would it surprise you to know that
15:42:54 22 Corona Cartel is syndicated for \$12 million?

15:43:03 23 A. Uh-huh.

15:43:06 24 Q. And a syndication only lasts about three years? A
15:43:10 25 syndication?

15:43:11 1 A. I do not -- I don't know.

15:43:13 2 Q. Okay.

15:43:13 3 A. I don't know details about syndications.

15:43:15 4 Q. Okay. We've had testimony from other witnesses that at
15:43:20 5 least where they do it, it's a three-year term. If a horse is
15:43:24 6 two years old or three years old and it goes into syndication and
15:43:29 7 let's just making \$12 million a syndication, if those are three
15:43:34 8 years, theoretically that horse could do like eight syndications,
15:43:39 9 correct?

15:43:39 10 A. Yes, sir.

15:43:40 11 Q. And if it's \$12 million at a time, that's 100 -- about \$100
15:43:46 12 million in syndication that a stallion could produce, correct?

15:43:50 13 A. Right.

15:43:51 14 Q. Would you agree with me that if you're trying to figure the
15:43:55 15 real value of a racing quarter horse, the earnings it might have
15:44:02 16 won in a race, even a big race was a million dollars, that might
15:44:07 17 be only one percent of what the horse is actually worth breeding.

15:44:13 18 A. Yes.

15:44:14 19 Q. Is that right?

15:44:14 20 A. Yes.

15:44:15 21 Q. And Mr. Corona Cartel, by the way, he never won the All
15:44:20 22 American Futurity, did he?

15:44:20 23 A. No. He didn't.

15:44:22 24 Q. I want to make sure I've asked you everything I wanted to
15:44:46 25 ask you on here.

15:45:06 1 A little bird reminded me of some questions. Going
15:45:18 2 back to the trials and the race, the All American Futurity, are
15:45:26 3 all 22 heats -- were they all run the same day?

15:45:31 4 A. Yes, it is. They do, I'm sorry.

15:45:33 5 Q. Did they start like in the morning and go up into the
15:45:36 6 afternoon?

15:45:36 7 A. Yes. They start early, probably like around 11:00 or 10:30
15:45:40 8 in the morning and went all the way until, I don't know, 4:30,
15:45:45 9 5:30. I don't remember exactly the time.

15:45:47 10 Q. And did you notice that the weather conditions like wind,
15:45:51 11 like headwind, tailwind, crosswind -- did the conditions change
15:45:55 12 throughout the day?

15:45:55 13 A. Yes. Especially in Ruidoso, yes, they do.

15:45:58 14 Q. And so, during the trials, some horses may have had an
15:46:00 15 advantage like a tailwind in their heat whereas other heats had a
15:46:07 16 headwind?

15:46:08 17 A. Yes.

15:46:10 18 Q. But for the big race, the All American Futurity, that's just
15:46:16 19 one heat, correct?

15:46:17 20 A. It's just one race.

15:46:18 21 Q. It's just the one race?

15:46:19 22 A. Yes.

15:46:19 23 Q. And so, by definition, that one race for that 20 seconds,
15:46:24 24 all the horses are running in the exact same conditions, correct?

15:46:27 25 A. Yes.

15:46:28 1 Q. Sir, I have no further questions.

15:46:35 2 THE COURT: Mr. Esper.

15:46:38 3 MR. ESPER: Very briefly, your Honor.

15:46:39 4 CROSS-EXAMINATION

15:46:39 5 BY MR. ESPER:

15:46:41 6 Q. Mr. Quintero, I believe you said that Mr. Nayan, you never

15:46:49 7 sent him any invoices. He just paid you in cash?

15:46:53 8 A. Cash or check.

15:46:55 9 Q. Okay. But would you just verbally communicate or would you

15:46:58 10 send him an e-mail?

15:46:59 11 A. No. Just verbally communicated.

15:47:01 12 Q. Okay. And then, he would either pay you in cash or check?

15:47:04 13 A. I think he paid me in check once or twice, but mostly, it

15:47:09 14 was cash. For him, specifically, I only trained for him from

15:47:13 15 January 1st of 2012 till the day of the raid, which was --

15:47:19 16 probably a week after, which was March.

15:47:21 17 Q. So you trained for about three months for him?

15:47:22 18 A. Three months. Yes.

15:47:23 19 Q. And how much of a bill did he accumulate with you for your

15:47:29 20 training fees, more or less?

15:47:32 21 A. He still owed me about \$2,200 when he -- I don't know if

15:47:37 22 that's the question. But he paid me prior to that.

15:47:41 23 Q. How much did he pay you?

15:47:42 24 A. It was about -- I really don't know to be honest.

15:47:49 25 Q. More than \$10,000?

15:47:51 1 A. No.

15:47:52 2 Q. Less than that?

15:47:53 3 A. Yes.

15:47:53 4 Q. And when he paid you cash, did you deposit the cash?

15:47:56 5 A. No. I would -- sometimes I would need it for my own

15:47:59 6 expenses. It depends when he paid me. Maybe I just needed it to

15:48:04 7 pay my workers or.

15:48:06 8 Q. Okay. Who was it that you allowed to deposit money into

15:48:10 9 your bank account in cash?

15:48:13 10 A. It was Mr. Cabrera account.

15:48:16 11 Q. Who?

15:48:17 12 A. Mr. Cabrera account.

15:48:18 13 Q. Mr. Cabrera?

15:48:19 14 A. Accountant. An e-mail.

15:48:21 15 Q. Okay.

15:48:22 16 A. Some of the e-mails.

15:48:24 17 Q. Did you know who that person was?

15:48:26 18 A. I have never met him before.

15:48:28 19 Q. And you allowed that person to deposit cash into an account

15:48:33 20 controlled by you, correct?

15:48:34 21 A. Yes, sir.

15:48:35 22 Q. And did you give this person the account number and bank?

15:48:38 23 A. Yes, sir, I did.

15:48:39 24 Q. Okay. And, all of a sudden, cash deposits come into your

15:48:43 25 account for payment of your training fees and expenses, correct?

15:48:47 1 A. Yes, sir.

15:48:47 2 Q. Okay. Did you know what structuring was before this time
15:48:54 3 period?

15:48:56 4 A. No.

15:48:56 5 Q. Had no idea?

15:48:57 6 A. Had no idea.

15:48:58 7 Q. Okay. Then whenever you pled guilty, you said you gave a --
15:49:04 8 earlier, you gave a definition, which was you allowed people to
15:49:08 9 deposit money into your bank account so that they could hide the
15:49:13 10 source of the money or to avoid having the bank file a report.

15:49:19 11 A. Yes.

15:49:20 12 Q. Remember that?

15:49:21 13 A. Yes.

15:49:21 14 Q. You didn't know that back when you were getting that money,
15:49:24 15 did you?

15:49:25 16 A. No, sir. I didn't.

15:49:25 17 Q. Did you -- whenever you are having this money deposited into
15:49:32 18 your account, did that -- somebody tell you, hey, I'm depositing
15:49:36 19 money less than 10,000 so I, the person depositing it, don't have
15:49:40 20 to fill out a report?

15:49:42 21 A. No, sir.

15:49:43 22 Q. Okay. Nobody told you that?

15:49:44 23 A. No, sir.

15:49:45 24 Q. Okay. If someone had told you that, would that have alarmed
15:49:48 25 you?

15:49:48 1 A. Most definitely. Yes.

15:49:51 2 Q. But you didn't know that that was a violation of any federal
15:49:56 3 law for somebody to avoid a report being filed by depositing less
15:50:01 4 than 10,000 into your account unless you agreed to it, also,
15:50:06 5 correct?

15:50:07 6 A. Yes, sir.

15:50:07 7 Q. Okay. Now, how much did you bill per day? Does it vary
15:50:13 8 with owner to owner and horse to horse?

15:50:15 9 A. Yes, it does.

15:50:17 10 Q. Okay. \$45 to \$100 a day? Does that sound about right?

15:50:20 11 A. No, sir.

15:50:21 12 Q. What did your --

15:50:22 13 A. My max is \$45 a day.

15:50:23 14 Q. \$45 a day?

15:50:24 15 A. Yes, sir.

15:50:25 16 Q. And if you have a horse for a month, you bill for 30 days or
15:50:29 17 28 days, or something like that.

15:50:30 18 A. Yeah. It all depends how long I have the horse for.

15:50:32 19 Q. So basically it's anywhere from a thousand to \$1,200 a
15:50:35 20 month?

15:50:36 21 A. About.

15:50:36 22 Q. And tell the ladies and gentlemen of the jury what that
15:50:39 23 includes.

15:50:41 24 A. Well, just the \$45 a day includes as far as taking care of
15:50:46 25 the horse, feeding the horse, cleaning the horse, and exercising

15:50:49 1 the horse.

15:50:50 2 Q. Okay. And do you work out at -- did you work out at Los
15:50:55 3 Alamitos?

15:50:55 4 A. That's where I was based at, yes.

15:50:56 5 Q. And that's a pretty big facility, is it not?

15:50:58 6 A. Yes, it is.

15:50:59 7 Q. They have onsite vets; is that correct?

15:51:01 8 A. Yes, they do.

15:51:02 9 Q. So if a horse you're training needs veterinary care, you
15:51:06 10 take him to the vet and then, the vet, does he bill you or does
15:51:10 11 he bill the owner?

15:51:11 12 A. It all depends what --

15:51:12 13 Q. The arrangements.

15:51:14 14 A. The arrangements you have with the owners. Yes.

15:51:16 15 Q. Okay. And your fees don't include vitamins, correct?

15:51:20 16 A. Yes, they do.

15:51:21 17 Q. They do?

15:51:21 18 A. At my barn, it does. Yes.

15:51:23 19 Q. In your barn, okay?

15:51:24 20 A. As well as supplemental vitamins as far as their feed goes,
15:51:29 21 yes.

15:51:29 22 Q. I think you said you took a horse to New Orleans, is that
15:51:32 23 correct, to race?

15:51:32 24 A. Yes, I did.

15:51:33 25 Q. Now, do you charge the owner for those fees to haul that

15:51:38 1 horse all the way to New Orleans?

15:51:39 2 A. Yes, I do.

15:51:39 3 Q. Okay. And that's pretty substantial fees, is it not?

15:51:42 4 A. Yeah. Haul them to New Orleans is about \$2,000, I think.

15:51:46 5 Depends also who you contract to do.

15:51:50 6 Q. So, in other words, you charge for gas and all of that

15:51:53 7 stuff?

15:51:53 8 A. Yes. Expenses.

15:51:54 9 Q. Hotels and all that.

15:51:56 10 A. Yes.

15:51:56 11 Q. And so, in addition, what about shoes and saddles?

15:52:01 12 A. Yeah. That's extra on the bill.

15:52:02 13 Q. That's all extra?

15:52:03 14 A. Yes.

15:52:04 15 Q. Okay. And you would bill an owner for that and hopefully

15:52:07 16 the owner pays you?

15:52:09 17 A. Yes.

15:52:09 18 Q. Okay. May I have just one moment, your Honor? That's all I

15:52:18 19 have, your Honor.

15:52:20 20 THE COURT: Mr. Mayr.

15:52:21 21 MR. MAYR: Thank you, your Honor.

15:52:22 22 CROSS-EXAMINATION

15:52:22 23 BY MR. MAYR:

15:52:27 24 Q. Mr. Quintero, were you a one-man operation? Did you have

15:52:31 25 other employees working with you?

15:52:32 1 A. I had other employees.

15:52:33 2 Q. Did you have someone working as sort of maybe like a
15:52:36 3 bookkeeper or someone to prepare the invoices and send them out?

15:52:39 4 A. No, sir. I did that all myself.

15:52:40 5 Q. You were in charge of all that?

15:52:41 6 A. Yes.

15:52:42 7 Q. And we saw that in some of these e-mails that were
15:52:44 8 previously admitted as 358H, some of them had attachments with
15:52:49 9 invoices, right?

15:52:50 10 A. Yes, sir.

15:52:50 11 Q. You prepared these invoices?

15:52:52 12 A. Yes, sir.

15:52:53 13 Q. You would e-mail them to whomever?

15:52:56 14 A. Yes, sir.

15:52:57 15 Q. And then, when the person would pay them, you would collect
15:52:59 16 that money or you would verify the deposit was made?

15:53:03 17 A. Yes, sir.

15:53:03 18 Q. You didn't have anyone else doing that for you?

15:53:05 19 A. No, sir.

15:53:06 20 Q. Okay. Now, I want to go back to some questions that Mr.
15:53:10 21 Esper was asking you about with your plea. You pled guilty to
15:53:17 22 the structuring offense; is that right?

15:53:20 23 A. Yes, I did.

15:53:21 24 Q. And you received probation for that?

15:53:23 25 A. Yes, sir.

15:53:24 1 MR. GARDNER: Your Honor, that's a misstatement of the
15:53:25 2 facts.
15:53:26 3 MR. MAYR: Oh, I'm sorry. Let me restate the question.
15:53:28 4 I apologize, Mr. Gardner.
15:53:30 5 Q. (BY MR. MAYR) The government has offered to recommend that
15:53:32 6 you receive probation.
15:53:33 7 A. Oh, yes, sir.
15:53:34 8 Q. Thank you. Okay.
15:53:35 9 Now, you told Mr. Esper that at the time that these
15:53:41 10 transactions were coming into your account, you didn't know that
15:53:47 11 what was being done was illegal; is that right?
15:53:49 12 A. No, sir.
15:53:50 13 Q. You learned that after the fact?
15:53:52 14 A. Yes, sir.
15:53:54 15 Q. So my question to you is, if you didn't know at the time
15:53:57 16 that it was illegal before anything illegal was happening, why
15:54:02 17 did you plead guilty?
15:54:04 18 MR. GARDNER: Your Honor, we object. It's improper.
15:54:06 19 The defendant has pled guilty. Improper question.
15:54:11 20 THE COURT: Are you going to take over his
15:54:13 21 representation, counsel?
15:54:14 22 MR. MAYR: I'm not, Judge. I'm just trying --
15:54:16 23 THE COURT: Well, then move on.
15:54:17 24 MR. MAYR: Okay.
15:54:20 25 THE COURT: That's a problem for the Court.

15:54:24 1 MR. MAYR: I'll move on, your Honor.

15:54:25 2 Q. (BY MR. MAYR) Now, Mr. Quintero, you being in the racing
15:54:30 3 business, you were familiar with other -- many other race
15:54:32 4 trainers out there; is that right?

15:54:34 5 A. I don't understand your question.

15:54:36 6 Q. I mean, you're familiar with other horse trainers?

15:54:39 7 A. Oh, yes.

15:54:40 8 Q. You know who "Chevo" Huitron is, right?

15:54:45 9 A. I have heard of him.

15:54:45 10 Q. Okay. Have you ever heard of Jesus Huitron being a race
15:54:50 11 trainer?

15:54:50 12 A. Never.

15:54:51 13 Q. I have no further questions, your Honor.

15:54:55 14 RE-DIRECT EXAMINATION

15:54:55 15 BY MR. GARDNER:

15:54:58 16 Q. Mr. Quintero, you didn't actually physically take, say,
15:55:02 17 \$20,000 and deposit it into the bank in less than \$10,000
15:55:07 18 increments?

15:55:07 19 A. No, sir.

15:55:08 20 Q. You've never done that?

15:55:10 21 A. I don't recall.

15:55:11 22 Q. Have you ever heard the phrase "ignorance is no defense of
15:55:14 23 the law"?

15:55:15 24 A. No, sir.

15:55:16 25 MR. ESPER: Objection, your Honor. That calls for a

15:55:17 1 legal conclusion.

15:55:18 2 THE COURT: I don't know if it's a legal conclusion,
15:55:20 3 but we're moving away from that issue.

15:55:23 4 MR. GARDNER: Yes, sir.

15:55:24 5 Q. (BY MR. GARDNER) What was Mr. Piloto's time in terms of all
15:55:30 6 the All American Futurities?

15:55:33 7 A. I don't understand your question.

15:55:35 8 Q. Did he have the slowest time in the history --

15:55:38 9 A. Yes. For the final.

15:55:39 10 Q. The final?

15:55:40 11 A. Yes, sir, he did.

15:55:52 12 Q. Mr. Quintero, I'm showing you Government's Exhibit 2B, taken
15:55:55 13 from the Lexington-Jose Trevino search warrant. Do you recognize
15:55:59 14 that, sir?

15:55:59 15 A. Yes, sir, I do.

15:56:00 16 Q. I want to turn your attention -- your Honor, may I have the
15:56:05 17 witness step down?

15:56:06 18 THE COURT: You may.

15:56:08 19 Q. (BY MR. GARDNER) If you'll come over here, Mr. Quintero.
15:56:13 20 Step to this side, please.

15:56:16 21 MR. FINN: Your Honor, could I migrate over to see
15:56:18 22 this?

15:56:18 23 THE COURT: Yes, sure.

15:56:21 24 MR. FINN: Thank you.

15:56:22 25 Q. (BY MR. GARDNER) What is this a photo of right here in the

15:56:26 1 center?

15:56:26 2 A. That's the winner's circle.

15:56:28 3 Q. The winner's circle. Who generally gets into the winner's
15:56:32 4 circle picture?

15:56:32 5 A. For big races we don't have it. I mean, generally it's just
15:56:36 6 owners, trainers, friends, family.

15:56:39 7 Q. And I want you to help me identify some individuals here.
15:56:42 8 Who is this individual right here?

15:56:44 9 A. Mr. Jose Trevino.

15:56:46 10 Q. Who is this individual right here?

15:56:49 11 A. Which one?

15:56:49 12 Q. That one right there?

15:56:50 13 A. Oh, Carlos Nayan.

15:56:51 14 Q. Who is the next gentleman on his right?

15:56:53 15 A. That's Raul Ramirez.

15:56:55 16 Q. Who is that on his right?

15:56:57 17 A. Fernando.

15:56:58 18 Q. And are you in here behind this individual?

15:57:03 19 A. Right there.

15:57:05 20 Q. So you are in this photo, correct?

15:57:07 21 A. Yes, sir, I am.

15:57:07 22 Q. All right. Thank you, Mr. Quintero. I'll ask you to step
15:57:11 23 back. Thank you.

15:57:14 24 Now, at that point, Mr. Quintero, who owns Mr. Piloto?

15:57:19 25 A. For the final?

15:57:20 1 Q. For the final, yes.

15:57:21 2 A. Mr. Jose Trevino.

15:57:23 3 Q. And when Mr. Esper asked you about syndication -- I'm sorry,
15:57:29 4 Mr. Womack. When Mr. Womack asked you about syndication, a lot
15:57:34 5 of that depends on the success of the first crop. Would that be
15:57:39 6 correct?

15:57:42 7 A. It varies. I mean, it's not -- there's not a certain rules
15:57:45 8 that stand for, you know, we have to wait till its first crop or
15:57:51 9 -- a horse can, right after running, he can be syndicated or
15:57:54 10 after the first crop can be syndicated.

15:57:57 11 Q. I guess my question is, is there any guarantee that a horse
15:58:01 12 winning the All American is going to have a successful stallion?

15:58:06 13 A. No guarantees.

15:58:07 14 Q. And so, if you have a horse with the slowest winning time in
15:58:10 15 the entire history of the All American, what is another reason
15:58:13 16 not to run that horse again?

15:58:17 17 A. Injuries. There's a lot of reasons.

15:58:21 18 Q. What about if the horse loses its next race?

15:58:24 19 A. It can affect them in the breeding. It could.

15:58:29 20 Q. So, again, I showed you Government's Exhibit 2B. That was
15:58:31 21 the winner's circle photo?

15:58:33 22 A. Yes, sir.

15:58:33 23 Q. And your testimony was that Jose Trevino was the owner at
15:58:35 24 that time?

15:58:35 25 A. Yes, sir.

15:58:36 1 Q. I'm showing you Government's Exhibit 102J. If you'll look
15:58:48 2 at your screen, Mr. Quintero, I'm going to point up here at the
15:58:51 3 big screen with the laser pointer, follow with me.

15:58:55 4 Who is that individual right there?

15:58:56 5 A. Jose Trevino.

15:58:58 6 Q. Okay. And here on this winner's circle photo, Garcia
15:59:03 7 Bloodstock is the owner?

15:59:04 8 A. Yes, sir.

15:59:04 9 Q. Okay. This is a photo from the trial that he won?

15:59:09 10 A. Yes, sir.

15:59:09 11 Q. Who is this individual?

15:59:14 12 A. Carlos Nayen.

15:59:16 13 Q. And the individual standing next to him?

15:59:18 14 A. Looks like Raul Ramirez.

15:59:19 15 Q. And who is Raul Ramirez?

15:59:20 16 A. I believe he was a cowboy for the barn.

15:59:27 17 Q. Whose barn?

15:59:27 18 A. Mr. Fernando's barn.

15:59:30 19 Q. And who is that?

15:59:30 20 A. That's Fernando Garcia.

15:59:31 21 Q. And that?

15:59:32 22 A. That's me.

15:59:32 23 Q. And who is this individual?

15:59:34 24 A. They called him "Negro."

15:59:38 25 Q. "El Negro"?

15:59:39 1 A. Yes, sir.

15:59:40 2 Q. Now, you also mentioned that you were introduced to Jose
15:59:43 3 Trevino as the owner of another horse called Feature Honor?

15:59:45 4 A. Yes, sir.

15:59:46 5 Q. Did feature Honor win its trial?

15:59:48 6 A. Yes, sir, he did.

15:59:48 7 Q. Showing you Government's Exhibit 102K. Would you agree with
15:59:53 8 me that this photo is almost identical to the photo from
15:59:57 9 Mr. Piloto?

15:59:57 10 A. Yes, sir.

15:59:58 11 Q. And, again, for the trials photos, who generally gets in
16:00:02 12 these photos?

16:00:04 13 A. Friends, family, I mean, there's no certain rules saying
16:00:09 14 just you can get in this picture.

16:00:11 15 Q. But friends and family?

16:00:13 16 A. Yes, sir.

16:00:14 17 Q. Showing you one of the three pictures from Government's
16:00:17 18 Exhibit 102A. Again, are these the same individuals that were in
16:00:34 19 the previous two photos?

16:00:36 20 A. Yes, sir.

16:00:37 21 Q. Okay. Two photos are Feature Honor, Mr. Piloto -- I'm
16:00:42 22 sorry, three photos, Mr. Piloto qualifier and Mr. Piloto finals?

16:00:46 23 A. Yes, sir.

16:00:47 24 MR. WOMACK: Your Honor, if we can get just an exhibit
16:00:49 25 number.

16:00:51 1 MR. GARDNER: This one is 102A. There's three
16:00:53 2 photographs and 102A.

16:00:56 3 MR. WOMACK: Thank you.

16:00:57 4 Q. (BY MR. GARDNER) Where are these photographs taken, Mr.
16:01:00 5 Quintero?

16:01:00 6 A. In the infield the day after the final race.

16:01:05 7 Q. And who is this individual right here, holding the trophy?

16:01:08 8 A. Mr. Jose Trevino.

16:01:09 9 Q. Is Jose Trevino the listed owner at the time?

16:01:11 10 A. Yes, sir.

16:01:12 11 Q. And who is this individual?

16:01:14 12 A. Raul Ramirez.

16:01:15 13 Q. And this individual?

16:01:16 14 A. Carlos Nayan.

16:01:18 15 Q. And who is this individual on top of the horse?

16:01:20 16 A. The jockey.

16:01:21 17 Q. And what's his relation to Raul Ramirez?

16:01:24 18 A. Brother.

16:01:26 19 Q. Is that you?

16:01:27 20 A. Yes, sir.

16:01:27 21 Q. This individual?

16:01:29 22 A. Fernando Garcia.

16:01:29 23 Q. And this individual?

16:01:31 24 A. "El Negro."

16:01:32 25 Q. To your knowledge, did Carlos Nayan have any association

16:01:35 1 with this horse in terms of the training or the ownership?

16:01:39 2 A. Yes, sir.

16:01:39 3 Q. And what association was that?

16:01:40 4 A. He would give -- because he's also a trainer in Mexico, so
16:01:47 5 he would give his feedback to Fernando about training the horse.

16:01:54 6 Q. Showing you 102J, again, Mr. Quintero. I want you to note
16:01:59 7 the color of the jockey's silks. In 102A, second picture, is
16:02:10 8 that the same set of silks?

16:02:11 9 A. Yes, sir.

16:02:12 10 Q. Why is Carlos Nayen wearing the silks of a horse if he
16:02:15 11 doesn't own it?

16:02:16 12 A. I have no idea.

16:02:21 13 Q. And another picture from 102A, where was this picture taken?

16:02:28 14 A. That was before getting to the saddling tack of the All
16:02:35 15 American final.

16:02:36 16 Q. And who is that individual?

16:02:36 17 A. That's Fernando Garcia.

16:02:38 18 Q. That's far left and to the right of him?

16:02:40 19 A. Carlos Nayen.

16:02:41 20 Q. And to the right of Carlos Nayen?

16:02:42 21 A. Raul Ramirez.

16:02:44 22 Q. And this individual?

16:02:44 23 A. That's me.

16:02:51 24 Q. Now, had you attended an auction at Heritage Place in 2011?

16:02:58 25 A. Yes, sir, I did.

16:02:59 1 Q. And at that auction, was Carlos Nayan present?

16:03:03 2 A. Yes, he was.

16:03:04 3 Q. And did he give you any instructions?

16:03:06 4 A. Yes. He asked me to buy some horses.

16:03:09 5 Q. And were there other people at that auction buying horses on

16:03:13 6 behalf of Carlos Nayan?

16:03:14 7 A. Yes, there was.

16:03:16 8 Q. Okay. And whose address was provided for the purchase of

16:03:19 9 all those horses at that 2011 --

16:03:21 10 A. My name. My address.

16:03:23 11 Q. Your address?

16:03:24 12 A. Yes, sir.

16:03:24 13 Q. And why are all the various persons bidding on horses

16:03:30 14 putting your address on the purchase slip?

16:03:33 15 A. At the moment, I was told that the address was put on there

16:03:37 16 because I was --

16:03:39 17 MS. WILLIAMS: I object to hearsay.

16:03:40 18 Q. (BY MR. GARDNER) Who told you this?

16:03:41 19 A. Excuse me?

16:03:42 20 Q. Who told you about --

16:03:43 21 A. Oh, Carlos Nayan and Tyler Graham.

16:03:47 22 Q. And so, what did they tell you?

16:03:49 23 MS. WILLIAMS: I object to hearsay.

16:03:50 24 THE COURT: It's overruled.

16:03:52 25 Q. (BY MR. GARDNER) You can answer the question.

16:03:54 1 A. Oh, I was told that to put my address so I can receive the
16:03:59 2 paperwork on the horses so they won't get lost in a Mexican
16:04:03 3 address.

16:04:04 4 Q. And when you say paperwork, are you referring to the
16:04:06 5 transfer of ownership paperwork?

16:04:08 6 A. Yes. Just the paper -- yeah, the paperwork on the horses.

16:04:12 7 Q. Did you ever receive the paperwork on the horses at your
16:04:18 8 address?

16:04:18 9 A. No, sir. I didn't.

16:04:18 10 Q. Was that also an auction where a horse called Separate Fire
16:04:25 11 was purchased?

16:04:26 12 A. I believe so.

16:04:28 13 Q. Who purchased that horse?

16:04:30 14 A. I don't know, sir.

16:04:32 15 Q. Was that one of the horses that was placed in your address?

16:04:35 16 A. I do not remember if it was or not.

16:04:37 17 Q. Now, Mr. DeGeurin asked you about some of the other owners.
16:04:46 18 Did you have an owner that you trained for called Bonanza Racing
16:04:51 19 Stables?

16:04:51 20 A. Yes, sir, I did.

16:04:52 21 Q. When were you approached to train horses for Bonanza Racing
16:04:56 22 Stables?

16:04:56 23 A. Bonanza was in November. No. Like around September,
16:05:03 24 November of 2011.

16:05:05 25 Q. And how many horses did you train for Bonanza?

16:05:07 1 A. Four horses.

16:05:08 2 Q. And do you know who the owner or the listed owner of Bonanza

16:05:12 3 was?

16:05:13 4 A. I think it was Francisco Silva.

16:05:16 5 Q. Would that be Francisco Silva-Ramos?

16:05:19 6 A. Ramos.

16:05:20 7 Q. Did you ever meet this individual?

16:05:21 8 A. I don't know if it was him, but I think I met him in

16:05:27 9 Ruidoso, but I'm not sure to be honest.

16:05:29 10 Q. So how would Bonanza Racing Stables contact you with respect

16:05:32 11 to training horses?

16:05:35 12 A. The one who told me to train these horses for Bonanza was

16:05:39 13 Carlos Nayan.

16:05:41 14 Q. And did you bill Bonanza Racing?

16:05:44 15 A. Yes, sir, I did.

16:05:45 16 Q. And what were generally the bills, the amount of bills for

16:05:49 17 the months?

16:05:50 18 A. Well, I didn't start billing them until maybe January of

16:05:53 19 2012, and it was for about 4 to \$6,000 a month.

16:05:59 20 Q. And at some point, did they stop paying you?

16:06:02 21 A. Yes, sir. They stopped paying me like a month. Like the

16:06:11 22 last -- they didn't pay me March or April, I think, and May. It

16:06:18 23 was like four months. After the raid at Los Alamitos, they

16:06:22 24 stopped paying me.

16:06:23 25 Q. After the raid?

16:06:23 1 A. Yes, sir.

16:06:23 2 Q. Thank you, Mr. Quintero. No further questions.

16:06:29 3 MS. WILLIAMS: No questions.

16:06:32 4 MR. DEGEURIN: No, your Honor.

16:06:33 5 MR. WOMACK: Very briefly, your Honor. If I could see
16:06:34 6 the photographs 102A.

16:06:37 7 RE-CROSS EXAMINATION

16:06:37 8 BY MR. WOMACK:

16:06:59 9 Q. Mr. Quintero, I'm going to show you, again, Government's
16:07:02 10 Exhibit 102A. It's a series of three photographs. This is the
16:07:08 11 largest one, the most focused one. And, again, this is a picture
16:07:16 12 of Mr. Piloto?

16:07:16 13 A. Yes, sir.

16:07:17 14 Q. And this was taken the day after he won the All American
16:07:20 15 Futurity?

16:07:21 16 A. Yes, sir.

16:07:22 17 Q. And the man standing at the far -- as we look at the
16:07:25 18 picture, the man to the far right next to the trophy, that's
16:07:33 19 Fernando Garcia?

16:07:33 20 A. Yes, sir.

16:07:35 21 Q. Do you see the big belt buckle he's wearing?

16:07:38 22 A. Yes, sir.

16:07:38 23 Q. Where did he get that?

16:07:39 24 A. That's the one I gave him after the race.

16:07:41 25 Q. That's the one for training Mr. Piloto?

16:07:43 1 A. Yes, sir.

16:07:44 2 Q. Thank you. Now, these racing silks, is this Carlos Nayan?

16:07:51 3 A. Yes, sir, it is.

16:07:52 4 Q. And he's wearing, looks like to me, a jersey. That's racing
16:07:55 5 silks, isn't it?

16:07:56 6 A. Yes, sir.

16:07:56 7 Q. Can everybody buy racing silks?

16:08:00 8 A. Yeah. Everybody can get them customized.

16:08:03 9 Q. The same as you could go out and buy a jersey for your
16:08:06 10 favorite NFL football team, you don't have to be a Dallas Cowboy
16:08:10 11 or a Houston Texan. I can buy an Arian Foster jersey, even
16:08:17 12 though I'm not Arian Foster?

16:08:18 13 A. Yes. Yes, sir.

16:08:19 14 Q. And you could do the same if you're a fan of racing. You
16:08:21 15 can buy racing silks?

16:08:22 16 A. Yes, sir.

16:08:27 17 Q. No further questions.

16:08:55 18 RE-CROSS EXAMINATION

16:08:55 19 BY MR. ESPER:

16:08:59 20 Q. Mr. Quintero, this exhibit was previously shown to you and
16:09:01 21 you've identified -- there's a lot of people in this picture,
16:09:04 22 aren't there?

16:09:05 23 A. Yes, sir.

16:09:05 24 Q. And you've identified some. Are there a number of them, you
16:09:10 25 don't even know who they are?

16:09:11 1 A. Yes, sir.

16:09:11 2 Q. Probably dozens of them, you don't know who they are, right?

16:09:14 3 A. Yes, sir.

16:09:14 4 Q. Okay. And -- but you've identified previously about three

16:09:18 5 or four?

16:09:18 6 A. Yes, sir.

16:09:20 7 Q. Do you know any of these other 35 or 40 people that are in

16:09:25 8 this picture?

16:09:25 9 A. I probably could name another five.

16:09:29 10 Q. Five?

16:09:29 11 A. Yes.

16:09:30 12 Q. So, in other words, about a third of them, you know who they

16:09:32 13 are, and the rest of them, you have no idea?

16:09:34 14 A. Yes, sir.

16:09:34 15 Q. And this is after the big race at Ruidoso?

16:09:39 16 A. Yes, sir.

16:09:40 17 Q. So all kinds of people gather in the winner's circle, right?

16:09:43 18 A. Yes, sir.

16:09:44 19 Q. Okay. That's all I have.

16:09:47 20 MR. MAYR: I have no further questions, your Honor.

16:09:50 21 THE COURT: Anybody want to ask these questions one

16:09:52 22 more time? Okay. May the witness be excused? You may be

16:10:00 23 excused, sir.

16:10:03 24 You may call your next witness.

16:10:04 25 MS. FERNALD: Government would call Debbie Kempe.

16:10:30 1 THE COURT: Come down here, please, ma'am.

16:10:34 2 (Witness sworn.)

16:10:52 3 THE COURT: If you'll tell us your full name and spell
16:10:57 4 your last name, please.

16:10:59 5 THE WITNESS: Deborah Kempe, K-E-M-P-E.

16:11:05 6 DEBORAH KEMPE, called by the Government, duly sworn.

16:11:05 7 DIRECT EXAMINATION

16:11:05 8 BY MS. FERNALD:

16:11:08 9 Q. Will you please introduce yourself to the jury? Tell them
16:11:10 10 what city you live in and what you do for a living.

16:11:12 11 A. I live in Oceanside, California and I am --

16:11:15 12 MR. FINN: Judge, I'm sorry, I can't hear her.

16:11:17 13 MS. FERNALD: I'm going to move the --

16:11:19 14 THE COURT: Talk into the microphone.

16:11:22 15 Q. (BY MS. FERNALD) See if that's a little bit better. Want to
16:11:26 16 say your name?

16:11:26 17 A. My name is Deborah Kempe. I live in Oceanside, California,
16:11:29 18 and I'm the controller at Vessels Stallion Farm.

16:11:33 19 Q. Vessels Stallion Farm. Can you tell the ladies and
16:11:36 20 gentlemen of the jury what that farm is and what it does?

16:11:38 21 A. We are race horse breeding farm. We breed quarter horses
16:11:43 22 and thoroughbreds, and then, we also raise and train race horses.

16:11:48 23 Q. And what do you do for them?

16:11:49 24 A. I'm the controller.

16:11:51 25 Q. So you basically handle all their accounting and paperwork;

16:11:54 1 is that correct?

16:11:55 2 A. Yes.

16:11:55 3 Q. I'm showing you now what has been marked as Government's

16:12:01 4 Exhibit 243. You and I have met before, haven't we?

16:12:06 5 A. Yes.

16:12:06 6 Q. Have you had a chance to review Government's 243?

16:12:11 7 A. Yes.

16:12:12 8 Q. What do you recognize, just overall, those records to be?

16:12:15 9 A. They are payments from some clients of ours.

16:12:29 10 Q. I'd like to turn your attention to approximately February of

16:12:35 11 2010. Did you prepare the government records during that period

16:12:43 12 of time on some breeding contracts?

16:12:46 13 A. Yes, we did.

16:12:46 14 Q. Is this one of your breeding contracts that I'm showing you

16:13:13 15 on Bates stamp No. 552244?

16:13:23 16 A. Yes.

16:13:24 17 Q. And the date on this particular breeding contract is

16:13:27 18 February the 15th of 2010; is that correct?

16:13:32 19 A. Yes, it is.

16:13:33 20 Q. Can you just tell the jury a little bit what this breeding

16:13:37 21 contract is? And then, we'll talk about the details surrounding

16:13:40 22 it. But just overall, what does Vessels go through with the

16:13:44 23 breeding contracts?

16:13:44 24 A. We issue breeding contracts to mare owners when they agree

16:13:49 25 to breed a mare to one of our stallions and that's what this

16:13:52 1 contract is.

16:13:53 2 Q. All right. And who is the mare owner in this particular
16:13:57 3 case?

16:13:57 4 A. Luis Gerardo Aguirre-Cruz.

16:14:01 5 Q. And that's right here at this line where I'm pointing right
16:14:03 6 now; is that correct?

16:14:04 7 A. Yes, it is.

16:14:04 8 Q. Did you have any contact with any other individuals prior to
16:14:10 9 Mr. Aguirre in reference to some of his horses?

16:14:15 10 A. Yes, we did.

16:14:16 11 Q. Okay. And who was that individual?

16:14:18 12 A. There were actually several. Carlos Lopez's name is on this
16:14:22 13 contract. Him. Ramiro Villarreal, Victor Lopez, Carlos Nayan.
16:14:31 14 That's all I can think of right now.

16:14:33 15 Q. The different individuals in concession with all these
16:14:37 16 horses working together?

16:14:38 17 A. Yes.

16:14:39 18 Q. And how many breeding contracts -- I'm not going to go
16:14:43 19 through every single one of them, but you've reviewed these. How
16:14:46 20 many breeding contracts during this period of time --

16:14:50 21 A. For 2010, there were ten.

16:14:52 22 Q. There were ten different contracts that were contained in
16:14:55 23 your records?

16:14:55 24 A. Yes.

16:14:55 25 Q. Is that correct?

16:14:56 1 A. Yes.

16:14:56 2 Q. The stallion in this one is First Down Dash; is that

16:15:00 3 correct?

16:15:00 4 A. Yes, it is.

16:15:01 5 Q. Are they all for First Down?

16:15:06 6 A. They're all for First Down Dash.

16:15:09 7 Q. Did you have any contact with an individual by the name of

16:15:24 8 Carlos Nayan?

16:15:26 9 A. I personally did not. I had contact with his wife but not

16:15:31 10 him.

16:15:32 11 Q. Okay. Was he also involved with these individuals?

16:15:35 12 A. I believe so.

16:15:38 13 Q. How were payments made on these two particular -- or, I'm

16:15:42 14 sorry, these ten breeding contracts?

16:15:45 15 A. The majority of them were wire transfers that we received.

16:15:49 16 Q. And do you recall, just off the top of your head, where

16:15:51 17 those wire transfers were from?

16:15:53 18 A. The majority of them, I think, were from Mexico.

16:15:57 19 Q. I'm going to show them to you -- I'm making you guess over

16:16:00 20 here, so I'm going to show them to you in just a second.

16:16:03 21 How much -- what is the cost of the breeding contract

16:16:06 22 from Vessels?

16:16:08 23 A. For one breeding was \$30,000.

16:16:18 24 Q. Have you seen these documents before that I'm putting in

16:16:22 25 front of you in reference to Bates stamp No. 552264?

16:16:27 1 A. Yes.

16:16:28 2 Q. Have you seen these?

16:16:29 3 A. Yeah.

16:16:29 4 Q. And did you review them this morning?

16:16:31 5 A. Yes.

16:16:32 6 Q. What are basically these records of?

16:16:35 7 A. These are notices we got from our bank of wire transfers

16:16:39 8 that were made to our account.

16:16:41 9 Q. And they were paid in reference to these ten?

16:16:43 10 A. Yes.

16:16:44 11 Q. Breeding contracts?

16:16:45 12 A. Yes.

16:16:46 13 Q. Let's go through these. Are you able to see on your

16:16:53 14 monitor?

16:16:53 15 A. Yeah.

16:17:02 16 Q. The first payment was received when on this one?

16:17:09 17 A. January 22nd.

16:17:11 18 Q. January the 22nd of 2010?

16:17:14 19 A. Yes.

16:17:14 20 Q. Okay. And specifically, where did this one come from?

16:17:18 21 Where did this wire come from?

16:17:22 22 A. It came -- that's all -- Security Business Bank is our bank.

16:17:29 23 Q. Okay.

16:17:29 24 A. So that one came from someone in Texas.

16:17:31 25 Q. Okay.

16:17:33 1 A. That name I don't recognize.

16:17:36 2 Q. Okay. And it's Silva Gabriela?

16:17:39 3 A. Yes.

16:17:40 4 Q. But that's not a name that you recognize, as you say,
16:17:43 5 correct?

16:17:43 6 A. No.

16:17:51 7 Q. Okay. In reference to the second payment, where did this
16:17:54 8 one come from?

16:17:55 9 A. Texas.

16:17:57 10 Q. And can you tell us the date on this particular one?

16:17:59 11 A. January 25th, 2010.

16:18:05 12 Q. What was the amount on this one?

16:18:07 13 A. \$30,000.

16:18:12 14 Q. We talked about the \$30,000 payment fee. That is for the
16:18:16 15 breeding only, is it not?

16:18:18 16 A. Yes.

16:18:18 17 Q. Okay. So if you have ten different breedings contracts,
16:18:22 18 obviously what would the breeding price be?

16:18:24 19 A. 300,000.

16:18:25 20 Q. Okay. Are there other expenses that are incurred?

16:18:29 21 A. There are a lot of other expenses because the mares actually
16:18:32 22 come to our farm, they're boarded there, there are reproductive
16:18:36 23 charges, medical charges, all kinds of charges related to horse
16:18:41 24 care.

16:18:42 25 Q. All right. So the bill would be over \$300,000, correct?

16:18:45 1 A. A lot over. Yes.

16:18:51 2 Q. What about this particular payment? This one occurred when?

16:18:55 3 A. January 25th of 2010.

16:18:59 4 Q. And who was the originator?

16:19:01 5 A. Alejandro Sanchez.

16:19:03 6 Q. And what was the amount for?

16:19:04 7 A. \$70,000.

16:19:13 8 Q. Next, who was the originator?

16:19:15 9 A. Alejandro Sanchez.

16:19:17 10 Q. That date was on?

16:19:18 11 A. I can't see the date on that one.

16:19:20 12 Q. Whoops, sorry.

16:19:21 13 A. January 27th of 2010.

16:19:23 14 Q. And what was the amount on it?

16:19:25 15 A. 50,000.

16:19:33 16 Q. Next payment.

16:19:35 17 A. April 19th of 2010.

16:19:38 18 Q. Originator?

16:19:40 19 A. Jose Luis Garcia-Teforio.

16:19:44 20 Q. Did you know who that individual is?

16:19:46 21 A. No, I don't.

16:19:47 22 Q. Were you familiar with that name?

16:19:48 23 A. No. I'm not.

16:19:51 24 Q. And what was the amount for?

16:19:52 25 A. 25,000.

16:19:59 1 Q. Next is on which date?

16:20:00 2 A. April 19th, 2010.

16:20:04 3 Q. Originator?

16:20:07 4 A. Nicholas Mata Villa Gomez.

16:20:11 5 Q. Where was it coming from?

16:20:12 6 A. It came from Mexico.

16:20:14 7 Q. And what was the amount on it?

16:20:17 8 A. 25,000.

16:20:23 9 Q. Next payment?

16:20:25 10 A. April 22nd of 2010.

16:20:29 11 Q. Originator?

16:20:34 12 A. Armando Cabrera.

16:20:37 13 Q. Again, where did this originate from?

16:20:39 14 A. In Mexico.

16:20:40 15 Q. And the amount?

16:20:43 16 A. 25,000.

16:20:55 17 Q. We made these tabs when you came in this morning, correct?

16:21:00 18 A. Yes. April 4 of -- I'm sorry, August 4th of 2010.

16:21:07 19 Q. And where did this originate from?

16:21:09 20 A. New Mexico.

16:21:11 21 Q. The amount?

16:21:13 22 A. \$8,900.

16:21:15 23 Q. And I notice there's some handwritten notes over here. What

16:21:18 24 are those handwritten notes?

16:21:19 25 A. That's my note to apply to the account of Luis Gerardo

16:21:23 1 Aguirre-Cruz.

16:21:25 2 Q. And that is your handwriting?

16:21:28 3 A. That is my handwriting.

16:21:38 4 Q. I missed something on this. That's right where I had the

16:21:43 5 tab, too. Do you see the name of the originator on here?

16:21:45 6 A. Sergio Rincon-Guerrero.

16:21:48 7 Q. Do you know if he had a nickname?

16:21:51 8 A. No.

16:21:57 9 Q. Payment of this one was on which date?

16:21:59 10 A. August 4th of 2010.

16:22:04 11 Q. Again, I see the handwritten note over here.

16:22:07 12 A. That's me.

16:22:08 13 Q. Same explanation?

16:22:09 14 A. Yes.

16:22:09 15 Q. Okay. Aguirre-Cruz, for the record, to apply to the

16:22:14 16 account?

16:22:14 17 A. \$9,000.

16:22:15 18 Q. Who made this particular one?

16:22:19 19 A. Raul Ramirez.

16:22:19 20 Q. And where did it come from?

16:22:22 21 A. From Texas.

16:22:23 22 Q. What about this particular payment?

16:22:34 23 A. This was on April 20th of 2012.

16:22:38 24 Q. Right here at the top; is that correct?

16:22:40 25 A. Yes.

16:22:40 1 Q. Okay. And who did it come from?

16:22:43 2 A. It came from Sandy Forwarding.

16:22:46 3 Q. And what is that?

16:22:48 4 A. That was just a man who called me to make payment on the
16:22:55 5 Aguirre-Cruz account.

16:22:57 6 Q. Do you know who this man was?

16:23:01 7 A. His name was either Jorge or I don't know. He just called
16:23:05 8 and wanted to make a payment, so I gave him the information and
16:23:08 9 he paid.

16:23:09 10 Q. What was the amount for?

16:23:10 11 A. \$12,292.

16:23:12 12 Q. When you receive a phone call like that, is there anything
16:23:14 13 unusual about that to you?

16:23:17 14 A. Not really. If someone wants to make a payment to me on an
16:23:21 15 account, you know, I make arrangements to get that payment made.

16:23:24 16 Q. And finally, there's a check here. You said the majority of
16:23:32 17 them were from wire and this is from a check.

16:23:34 18 A. Yes.

16:23:34 19 Q. So these are from your records and there seems to be a
16:23:37 20 little bit of a obstruction here, but what is it for?

16:23:40 21 A. Actually, that must be payment on Aguirre-Cruz's account.
16:23:52 22 Actually don't remember seeing this one, but that's my
16:23:56 23 handwriting right there. So obviously I did see it.

16:23:58 24 Q. And it says for eight mares; is that correct?

16:24:00 25 A. Yes.

16:24:01 1 Q. How unusual was it to have different payments for ten
16:24:19 2 different breeding contracts like that?

16:24:23 3 A. It's a little unusual to have that many payments come in on
16:24:30 4 one account.

16:24:31 5 Q. But it's happened before?

16:24:32 6 A. It's happened. Yeah, it happens, especially with that large
16:24:37 7 of an amount.

16:24:40 8 Q. And you had previously testified that you had had contact
16:24:45 9 with other individuals. I want to show you just a few more
16:24:52 10 documents. Do you recognize this document?

16:25:03 11 A. Yeah. That was another payment we got from Sandy
16:25:06 12 Forwarding.

16:25:06 13 Q. In reference to the ten breeding contracts?

16:25:11 14 A. Yes.

16:25:17 15 Q. And this Wells Fargo 15,750 check in reference to Bates
16:25:23 16 stamp No. 552153, do you recognize that?

16:25:28 17 A. Yes, I do.

16:25:28 18 Q. Whose name can you see?

16:25:31 19 A. Victor Lopez. Yes.

16:25:32 20 Q. And what was your contact with Victor Lopez in reference to
16:25:40 21 these accounts?

16:25:40 22 A. He's the one I spoke to on the phone most of the time when
16:25:43 23 -- to make arrangements for the payments of the wires, you know,
16:25:46 24 to give him the information, and he was basically my only
16:25:50 25 contact.

16:25:51 1 Q. All right. Just so that I'm giving a fair and accurate
16:25:55 2 timeline, you were talking about Villarreal and then, Victor
16:25:58 3 Lopez. Where do they fall on the timeline?

16:26:00 4 A. It all started with Ramiro Villarreal, and then, he handled
16:26:06 5 things for quite a while. And then, he -- you know, we lost
16:26:10 6 contact with him, and then, Victor seemed to take over.

16:26:12 7 Q. Do you recall when you lost contact with Villarreal?

16:26:17 8 A. I would guess that it was maybe 2009. Not exactly sure.

16:26:24 9 Q. After that period of time, have you seen him since then?

16:26:27 10 A. No.

16:26:27 11 Q. Is this one of the payments by Villarreal, what I'm showing
16:26:55 12 you on 552154?

16:26:58 13 A. Yes.

16:26:58 14 Q. And what date was that?

16:26:59 15 A. April 13th of 2011.

16:27:02 16 Q. Why do you have Villarreal here after the fact that you had
16:27:06 17 lost contact?

16:27:07 18 A. Because that's -- we still have that name on the account.

16:27:12 19 Q. And who was the originator?

16:27:14 20 A. Grupo Aduanero.

16:27:19 21 Q. Did good. Where did that come from?

16:27:22 22 A. Veracruz, Mexico.

16:27:23 23 Q. The amount on this particular one?

16:27:25 24 A. \$10,000.

16:27:27 25 Q. And finally, can you tell me the date on this one?

16:27:39 1 A. August 13th of 2009.

16:27:41 2 Q. For the record, 552155. August the 13th of 2009?

16:27:49 3 A. 2009.

16:27:50 4 Q. And who is the originator?

16:27:52 5 A. Basic Enterprises.

16:27:54 6 Q. The amount is?

16:27:54 7 A. \$3,850.

16:27:58 8 Q. And where was Basic Enterprises the originator from?

16:28:03 9 A. I believe that's Mexico.

16:28:07 10 Q. And these that we went over with the exception of the checks

16:28:10 11 that I saw were all wires; is that correct?

16:28:14 12 A. Yes.

16:28:15 13 Q. Thank you.

16:28:27 14 A. You're welcome.

16:28:28 15 Q. Pass the witness.

16:28:30 16 MS. WILLIAMS: No questions.

16:28:31 17 MR. SANCHEZ: No questions, your Honor.

16:28:33 18 MR. WOMACK: No questions.

16:28:34 19 MR. ESPER: I have none, your Honor.

16:28:36 20 MR. MAYR: Nor do I, your Honor.

16:28:37 21 THE COURT: May the witness be excused?

16:28:41 22 MS. FERNALD: With our thanks, your Honor.

16:28:42 23 THE COURT: You may be excused.

16:28:54 24 MR. GARDNER: Your Honor, the government calls Jose

16:28:56 25 Flores.

16:29:24 1 (Witness sworn.)

16:29:41 2 THE COURT: I want you to try to talk into that

16:29:46 3 microphone. Tell us your full name and spell your last, please.

16:29:51 4 THE WITNESS: Jose Antonio Flores, F-L-O-R-E-S.

16:29:56 5 THE COURT: You may proceed.

16:29:57 6 JOSE A. FLORES, called by the Government, duly sworn.

16:29:57 7 DIRECT EXAMINATION

16:29:57 8 BY MR. GARDNER:

16:29:58 9 Q. Thank you, your Honor.

16:29:59 10 Good afternoon, Mr. Flores.

16:30:00 11 A. Good afternoon.

16:30:01 12 Q. Could you please introduce yourself to the jury and tell

16:30:03 13 them how old you are, where you live, and what you do for a

16:30:06 14 living?

16:30:06 15 A. My name is Jose Antonio Flores. I'm an attorney in Los

16:30:11 16 Alamitos race track, and my age is 38 years old.

16:30:15 17 THE COURT: And you don't need to get that close.

16:30:17 18 THE WITNESS: Okay.

16:30:18 19 Q. (BY MR. GARDNER) It will pick you.

16:30:19 20 How long have you been a trainer, sir?

16:30:20 21 A. About 18 years.

16:30:22 22 Q. And mostly based out of Los Alamitos?

16:30:25 23 A. Yes, sir.

16:30:25 24 Q. Sir, I want to turn your attention to last year. Do you

16:30:35 25 recall being contacted by someone to train for a company called

16:30:39 1 Bonanza Racing Stables?

16:30:41 2 A. Yeah.

16:30:41 3 Q. And who contacted you, sir?

16:30:43 4 A. Francisco Silva.

16:30:44 5 Q. And was there contact in person or over the phone?

16:30:47 6 A. Over the phone.

16:30:49 7 Q. Now, is that common in the business to be contacted by
16:30:52 8 someone to train horses over the phone?

16:30:54 9 A. Yes.

16:30:55 10 Q. And what did this Mr. Francisco Silva talk to you about?

16:30:59 11 A. He had certain horses that he wanted me to train and
16:31:04 12 hopefully I could do the job for him.

16:31:06 13 Q. And did you settle on a price for the training?

16:31:09 14 A. Yes.

16:31:09 15 Q. And how much did you ask per day for training fees?

16:31:13 16 A. \$47 a day.

16:31:16 17 Q. And how many horses was it your understanding he was going
16:31:25 18 to send you?

16:31:26 19 A. About four or five horses.

16:31:28 20 Q. And, again, when did this conversation occur?

16:31:32 21 A. Last year. I can't recall the date.

16:31:36 22 Q. That's fine. Beginning of the year, early part of the year?

16:31:39 23 A. Yeah. Early part of the year.

16:31:41 24 Q. And did you eventually receive some horses from this
16:31:44 25 Francisco Ramos?

16:31:46 1 A. Yes.

16:31:47 2 Q. And when do you recall receiving horses?

16:31:50 3 A. I believe it was in January, February.

16:31:54 4 Q. And how many horses did you obtain?

16:31:57 5 A. About five. Around five horses.

16:32:01 6 Q. And I assume you went through the normal steps to train a

16:32:05 7 horse, getting it ready for racing?

16:32:06 8 A. Yes, sir.

16:32:06 9 Q. And, sir, were you familiar with the raid at the Los

16:32:10 10 Alamitos race track on March 27th last year?

16:32:12 11 A. I wasn't there, but I heard about it.

16:32:16 12 Q. And did Bonanza Racing Stables pay you during the months of

16:32:20 13 January and February?

16:32:23 14 A. Yes.

16:32:24 15 Q. Did they pay you accurately?

16:32:26 16 A. They paid me.

16:32:27 17 Q. Did they pay you after the raid?

16:32:29 18 A. I can't remember when they paid me after the raid, if they

16:32:34 19 did or not. It's all in my books.

16:32:36 20 Q. And you talked about you have a bookkeeper keep track of

16:32:40 21 that?

16:32:40 22 A. Yes, I do.

16:32:41 23 Q. Because I believe you said you weren't very organized --

16:32:43 24 A. I'm not very organized, so I have a bookkeeper takes care of

16:32:46 25 that.

16:32:46 1 Q. Do you know a Jose Trevino?

16:32:47 2 A. Yes.

16:32:48 3 Q. And how do you know him?

16:32:49 4 A. Through the races.

16:32:52 5 Q. Is he training horses for him?

16:32:53 6 A. Yes. I did train a couple of horses for him.

16:32:55 7 Q. I want to talk about one particular horse. Did you train a

16:33:00 8 horse called Mr. Ease Cartel?

16:33:02 9 A. Yes, I do.

16:33:03 10 Q. And whose horse was that when you first got it?

16:33:07 11 A. It belonged to Francisco Silva.

16:33:09 12 Q. Through Bonanza Racing?

16:33:10 13 A. Bonanza Racing Stables.

16:33:14 14 Q. How good a horse was Mr. Ease Cartel?

16:33:16 15 A. He's a nice horse.

16:33:17 16 Q. Nice horse?

16:33:18 17 A. Yeah.

16:33:18 18 Q. Did he do well in the races?

16:33:20 19 A. He was starting to do well.

16:33:24 20 Q. Now, I want to talk specifically about a race called the

16:33:26 21 Kindergarten Futurity.

16:33:27 22 A. Okay.

16:33:29 23 Q. Was that a race at the Los Alamitos race course?

16:33:32 24 A. Yes. It's the first futurity out there at the Los Angeles

16:33:35 25 race course.

16:33:36 1 Q. Is that for two-year-olds?

16:33:38 2 A. For two-year-olds.

16:33:39 3 Q. And what's the purse for that race?

16:33:41 4 A. It varies between 270 to 300,000.

16:33:45 5 Q. So what's the winner usually take from that type of race?

16:33:49 6 A. About 42 percent.

16:33:52 7 Q. So about a little less than half?

16:33:55 8 A. Less than half.

16:33:56 9 Q. And did Mr. Ease Cartel win the Kindergarten Futurity in
16:34:00 10 2012?

16:34:01 11 A. No. He didn't.

16:34:02 12 Q. How did he do?

16:34:03 13 A. He ran third.

16:34:05 14 Q. What's the next race after the Kindergarten Futurity?

16:34:10 15 A. The Ed Burke.

16:34:12 16 Q. And was there a point where the ownership of that horse
16:34:15 17 changed?

16:34:17 18 A. Yes. There was a point in it where it changed.

16:34:19 19 Q. Okay. And who purchased or who acquired, rather, Mr. Ease
16:34:23 20 Cartel?

16:34:24 21 A. Tremor. Jose Trevino.

16:34:26 22 Q. Tremor Enterprises?

16:34:28 23 A. Right.

16:34:29 24 Q. And what discussions did you have with either Mr. Silva or
16:34:32 25 Mr. Jose Trevino regarding the transfer of that horse?

16:34:35 1 A. Nothing. He just asked me, you know, that he was interested
16:34:38 2 in buying him and that he was probably going to go ahead and buy
16:34:41 3 him. I advised him it was a good purchase. Good horse.

16:34:45 4 Q. And what happened at the Ed Burke?

16:34:49 5 A. He won his trial and then -- he won his trial and then, he
16:34:54 6 never made it to the final.

16:34:55 7 Q. Is that because federal law enforcement stepped in?

16:34:58 8 A. Yes, sir.

16:34:59 9 Q. Seized that horse?

16:35:00 10 A. Uh-huh.

16:35:01 11 Q. When you were training for Bonanza Racing Stables, how did
16:35:07 12 you pay your bills? Or how did you get the bills to Bonanza?

16:35:12 13 A. Through an e-mail.

16:35:14 14 Q. Do you recall the name of the e-mail?

16:35:16 15 A. My bookkeeper has more the name of it.

16:35:19 16 Q. If I were to tell you A-N-R-I 2319@hotmail.com, would that
16:35:25 17 refresh your memory?

16:35:25 18 A. That sounds familiar.

16:35:27 19 Q. If I show it to you on the screen, Government's Exhibit 358,
16:35:31 20 is that the e-mail that your billing would go to?

16:35:33 21 A. Yeah. That sounds about right.

16:35:38 22 Q. Now, Mr. Flores, you said you weren't present at the time of
16:35:48 23 the raid at Los Alamitos race track.

16:35:50 24 A. No, sir. Excuse me. The first raid?

16:35:55 25 Q. Yeah. That's right. The first raid in March 27th.

16:35:58 1 A. No. I wasn't.

16:35:59 2 Q. Did you receive any e-mails from this e-mail following that

16:36:04 3 raid?

16:36:04 4 A. No.

16:36:04 5 Q. Your Honor, I'll pass the witness.

16:36:07 6 MS. WILLIAMS: No questions.

16:36:11 7 MR. DEGEURIN: No questions.

16:36:12 8 MR. WOMACK: No questions.

16:36:13 9 MR. ESPER: I have none, your Honor.

16:36:15 10 MR. MAYR: Nor do I, your Honor.

16:36:16 11 THE COURT: You may be excused, sir.

16:36:20 12 THE WITNESS: Thank you, sir.

16:36:27 13 MR. GARDNER: Your Honor, the government calls Jaime

16:36:37 14 Gomez.

16:37:19 15 (Witness sworn.)

16:37:42 16 THE COURT: I need for you to tell me your full name,

16:37:54 17 please, sir, and spell your last name.

16:37:58 18 THE WITNESS: Jaime Gomez, G-O-M-E-Z.

16:38:06 19 JAIME GOMEZ, called by the Government, duly sworn.

16:38:06 20 DIRECT EXAMINATION

16:38:06 21 BY MR. GARDNER:

16:38:07 22 Q. Thank you, your Honor.

16:38:08 23 Mr. Gomez, good afternoon.

16:38:10 24 A. Good afternoon.

16:38:12 25 Q. Would you please introduce yourself to the jury and tell

16:38:16 1 them what you do for a living?

16:38:18 2 A. I train horses as a living.

16:38:24 3 Q. And, sir, how long have you been training horses?

16:38:32 4 A. For 25 years.

16:38:34 5 Q. And where are you currently training horses?

16:38:43 6 A. Presently, I train horses at Los Alamitos race track.

16:38:47 7 Q. Sir, have you ever trained horses for a company called

16:38:50 8 Bonanza Racing Stables?

16:38:57 9 A. They gave me two horses in October of last year.

16:39:00 10 Q. And when you say they gave you, who was that individual who

16:39:04 11 gave you two horses?

16:39:10 12 A. A guy told me I would get two horses.

16:39:14 13 Q. And do you know an individual by the name of Carlos Nayan?

16:39:18 14 A. Carlos Nayan.

16:39:20 15 Q. And, sir, on the screen in front of you, do you recognize

16:39:29 16 that person?

16:39:29 17 A. Yes, sir.

16:39:31 18 Q. Is that Mr. Nayan?

16:39:32 19 A. Yes.

16:39:33 20 Q. And with respect to Bonanza Racing Stables, what was Mr.

16:39:39 21 Nayan's involvement?

16:39:51 22 A. I don't know exactly. I -- he's the one that gave me the

16:39:55 23 horses. I was to train them.

16:39:57 24 Q. And when was this, sir?

16:40:12 25 A. In October -- at the October auction of last year -- 2011.

16:40:20 1 Q. And when did you receive horses to train from Carlos Nayan?

16:40:36 2 A. I picked up the horses at the auction, took them back to the

16:40:49 3 ranch, trained them, trained them, took them to run. Their

16:40:54 4 registrations were at the office. I don't know who took that.

16:40:57 5 Q. And were you paid for your training bills on these horses?

16:41:05 6 A. Only two or three payments were made.

16:41:07 7 Q. And was there a point when those payments stopped?

16:41:11 8 A. Yes. There was a time that they did not pay me.

16:41:18 9 Q. And, sir, are you familiar with a horse called Kind Hearted?

16:41:27 10 A. Yes, sir. That was my mare.

16:41:29 11 Q. And did you eventually sell that mare?

16:41:31 12 A. I sell the mare. Yeah, I sold the mare.

16:41:37 13 Q. Thank you, Mr. Gomez. You speak very good English.

16:41:41 14 A. A lot of it I don't understand completely, but I speak it

16:41:49 15 more or less.

16:41:51 16 Q. And you also have the interpreter, so please feel free to

16:41:57 17 use her.

16:41:57 18 A. Sorry.

16:41:58 19 Q. Oh, no problem.

16:42:01 20 Kind Hearted, who approached you about buying that

16:42:04 21 horse?

16:42:13 22 A. Mr. Carlos, the guy Carlos asked me if I had the mare, and I

16:42:18 23 said I was the owner.

16:42:20 24 Q. And what was the price that y'all decided on to sell that

16:42:25 25 horse?

16:42:32 1 A. The mare had two good colts. The price was 200,000.

16:42:36 2 Q. And did Mr. Nayan agree to pay that 200?

16:42:41 3 A. He accepted -- he agreed to the sale and said she would be
16:42:53 4 paid for in a month or two.

16:42:55 5 Q. And was she eventually paid for?

16:43:01 6 A. She was paid for. Not to me but to my bookkeeper in
16:43:08 7 January.

16:43:09 8 Q. And your bookkeeper is Mr. Morschauser?

16:43:13 9 A. Yes.

16:43:14 10 Q. And you visited with me and Mr. Morschauser back in March, I
16:43:20 11 believe. And did you and Mr. Morschauser provide me with these
16:43:24 12 documents?

16:43:24 13 A. Yes, sir.

16:43:26 14 Q. Your Honor, I believe this is Government's Exhibit 322,
16:43:41 15 Bates stamp 60.

16:43:44 16 In particular, Mr. Gomez, I'm showing you page 287 of
16:43:52 17 Government's Exhibit 322.

16:43:59 18 A. Is that going to show up on the screen?

16:44:01 19 Q. In a second. One second, your Honor. I apologize. Your
16:44:06 20 Honor, at this point, I'd offer Government's Exhibit 322. I
16:44:09 21 don't see it's admitted into evidence yet.

16:45:22 22 MR. FINN: Judge, I'm going to object. They didn't lay
16:45:25 23 the proper predicate. The affidavit is not sworn to.

16:45:29 24 MR. GARDNER: I believe I did lay the proper predicate,
16:45:30 25 your Honor. The witness has identified these are his records

16:45:33 1 prepared by his accountant, Mr. Morschauser.

16:45:35 2 MR. FINN: Judge, there's a certain procedure that
16:45:36 3 needs to be followed.

16:45:39 4 THE COURT: At this time, you need to ask a few more
16:45:44 5 questions to qualify the admissibility.

16:45:52 6 MR. GARDNER: I apologize. Let me show this to Mr.
16:45:55 7 Finn.

16:46:07 8 MR. FINN: No objection.

16:46:08 9 THE COURT: All right. 322 is admitted.

16:46:10 10 Q. (BY MR. GARDNER) Thank you, your Honor.

16:46:12 11 Now, Mr. Gomez, you talked about you being paid for
16:46:16 12 that horse. Did Mr. Nayen explain to you who would be actually
16:46:20 13 making the payment?

16:46:25 14 A. He told me he wasn't sure it was going to be Francisco
16:46:30 15 Colorado or another man.

16:46:36 16 Q. Sir, I'm showing you a page from Bates stamp 60287, and this
16:46:51 17 shows a deposit of \$200,000 into your account on January 11 from
16:46:58 18 ADT Petro Servicios. Was that the payment for Kind Hearted?

16:47:02 19 A. Yes, sir.

16:47:04 20 Q. Sir, did you provide Carlos Nayen with the American Quarter
16:47:13 21 Horse Association transfer paperwork for that horse?

16:47:21 22 A. I gave him -- when the mare was picked up, I gave him the
16:47:26 23 registration and the transfer.

16:47:29 24 Q. The actual registration -- the certificate of registration
16:47:32 25 for the horse.

16:47:33 1 A. Yes.

16:47:34 2 Q. Do you know if that certificate of registration was ever
16:47:37 3 filed with the AQHA?

16:47:39 4 A. I don't know.

16:47:40 5 Q. And were you aware that horse was found in Lexington,
16:47:44 6 Oklahoma in June of 2012?

16:47:47 7 A. Yes, I knew. I was told. The man that went to Los Alamitos
16:48:04 8 told --

16:48:04 9 MR. FINN: Judge, I'm going to object to hearsay.

16:48:06 10 MR. GARDNER: That's fine, your Honor. I don't have
16:48:07 11 any further questions for this witness.

16:48:12 12 THE COURT: Mr. Finn.

16:48:18 13 MR. FINN: Good afternoon. No questions.

16:48:26 14 THE COURT: Mr. Sanchez.

16:48:28 15 MR. SANCHEZ: Thank you, your Honor.

16:48:30 16 CROSS-EXAMINATION

16:48:30 17 BY MR. SANCHEZ:

16:49:05 18 Q. My name's Andres Sanchez. Sorry, I don't think we
16:49:07 19 introduced ourselves. I'm going to ask you a few questions.

16:49:13 20 A. Fine. I'm sorry.

16:49:17 21 Q. Is this the wire we were just talking about?

16:49:21 22 A. Yes, sir.

16:49:23 23 Q. This is the date?

16:49:24 24 A. Yes, sir.

16:49:25 25 Q. Was this the --

16:49:35 1 A. He's the one that does my taxes for me. He's the one takes
16:49:38 2 the money for me. He get the money and then, he give me the
16:49:46 3 money back later to pay horses or things.

16:50:01 4 Q. I'm going to show you --

16:50:11 5 MR. GARDNER: I'm sorry, Mr. Sanchez, what exhibit is
16:50:14 6 that? I'm sorry.

16:50:20 7 Q. (BY MR. SANCHEZ) Show you a page out of Colorado Exhibit 7.
16:50:25 8 Bates label 385. Was this the particular wire? Is that your
16:50:39 9 accountant?

16:50:41 10 A. Yes, sir.

16:50:52 11 Q. The \$200,000?

16:50:54 12 A. Yes, sir.

16:50:55 13 Q. And that's the same date that we saw?

16:50:58 14 A. Yes, sir.

16:51:00 15 Q. That's January 11, 2012?

16:51:04 16 A. Yes, sir.

16:51:05 17 Q. Did you say you didn't know this person, Francisco
16:51:13 18 Silva-Ramos?

16:51:16 19 A. Sir, I don't know him.

16:51:18 20 Q. Have you heard of him?

16:51:20 21 A. No, sir.

16:51:24 22 Q. Does it look like on this document that this individual is
16:51:35 23 authorizing the payment to your accountant?

16:51:37 24 A. I believe so. He's signing the document.

16:51:51 25 Q. I'll pass the witness. No. Wait. Sorry. Pass the

16:52:01 1 witness.

16:52:03 2 MR. WOMACK: Thank you, your Honor.

16:52:04 3 CROSS-EXAMINATION

16:52:06 4 BY MR. WOMACK:

16:52:06 5 Q. Good afternoon, Senior Gomez.

16:52:07 6 A. Good afternoon.

16:52:09 7 Q. Sir, I'm Guy Womack. I live in Houston.

16:52:12 8 I want the jury to know who you are. You told us that
16:52:17 9 you've been training for 25 years?

16:52:19 10 A. Yes.

16:52:21 11 Q. And you know that you're very highly regarded as a trainer.

16:52:26 12 A. Yes, sir. Thank you.

16:52:29 13 Q. You're familiar with the horse Corona Cartel?

16:52:32 14 A. Yes, sir.

16:52:32 15 Q. You trained Corona Cartel?

16:52:35 16 A. I trained Corona Cartel.

16:52:38 17 Q. Corona Cartel is a very successful horse, isn't it?

16:52:42 18 A. Yes, sir.

16:52:44 19 Q. His racing career was while he was a two-year-old?

16:52:52 20 A. Yes.

16:52:53 21 Q. What was the biggest race that Corona Cartel won?

16:52:57 22 A. The Million-Dollar Futurity. It's run in September, it's --
16:53:11 23 December, it's run at Los Alamitos, and they call it the
16:53:16 24 Million-Dollar Futurity.

16:53:18 25 Q. How much money did Corona Cartel win for winning that race?

16:53:29 1 A. They get 41 percent of the purse.

16:53:32 2 Q. So by winning that race, Corona Cartel won about \$420,000.

16:53:39 3 A. Something like that.

16:53:42 4 Q. Do you know what Corona Cartel's career winnings were for
16:53:47 5 that -- he raced for one year. What was his career winnings when
16:53:51 6 he retired?

16:53:53 7 A. Sir, I don't remember.

16:53:54 8 Q. Could it be around a half a million dollars?

16:54:00 9 A. Maybe because he won the Kindergarten. He won the
16:54:16 10 consolation race at the All American. So he must have won
16:54:22 11 600,000, 500,000, in there, I think.

16:54:25 12 Q. What year did Corona Cartel win the consolation race at the
16:54:32 13 All American Futurity?

16:54:38 14 A. Seems like it was 2002.

16:54:41 15 Q. Okay. Corona Cartel retired as a two-year-old, didn't he?

16:54:48 16 A. Three-year-old.

16:54:49 17 Q. As a three-year-old?

16:54:51 18 A. He was run one more time.

16:54:52 19 MR. GARDNER: Your Honor, at this point, I'm going to
16:54:56 20 object to relevance. This was not within the scope of the direct
16:54:59 21 examination.

16:55:01 22 MR. WOMACK: Your Honor, I hate to hold him here as a
16:55:03 23 witness for the defense while he's here. I'd like to go ahead
16:55:06 24 and just get his -- just a few questions. When we started, they
16:55:11 25 asked him about being a trainer. I'm going into just what a

16:55:14 1 trainer --

16:55:16 2 THE COURT: Now, now, blanket's not over my eyes. How
16:55:20 3 many more questions do you think?

16:55:21 4 MR. WOMACK: About four.

16:55:22 5 THE COURT: All right. Proceed.

16:55:24 6 MR. WOMACK: Thank you.

16:55:24 7 Q. (BY MR. WOMACK) Senior Gomez, you know that Corona Cartel
16:55:34 8 now is being cared for by Butch Wise and the Lazy E Ranch?

16:55:42 9 A. Yes, sir.

16:55:42 10 Q. And you know that Corona Cartel is syndicating?

16:55:45 11 A. Yes, sir.

16:55:47 12 Q. In fact, you own a share in that syndication?

16:55:50 13 A. Yes, sir.

16:55:51 14 Q. How long a period of time does the syndication for Corona
16:55:58 15 Cartel run? Is it like a period of time like two years or three
16:56:01 16 years?

16:56:09 17 A. Are you asking setting up the syndicate, the syndication?
16:56:13 18 Are you asking about setting it up?

16:56:14 19 Q. If one buys a share in the syndicate for Corona Cartel, for
16:56:20 20 how long a period of time are they entitled to breeding him?

16:56:25 21 A. All his life. Every day the horse lives, his entire life.

16:56:35 22 Q. And do you pay additional fees or a number of -- over years?

16:56:55 23 A. You pay a certain percentage to the ranch where he is, and
16:57:00 24 any time you inseminate, you have to pay what they call a booking
16:57:05 25 fee. And I don't know -- remember if that's 500 or 600.

16:57:09 1 Q. Dollars or thousands of dollars?

16:57:11 2 A. Dollars. \$500.

16:57:15 3 Q. And with regards to Corona Cartel, his value as a breeding
16:57:21 4 stallion will far exceed his winnings as a race horse, correct?

16:57:53 5 A. Well, there was a point that he was worth more than what he
16:57:58 6 was syndicated for. And there was a point where the embryos were
16:58:01 7 worth 50,000. He's an old horse now. I don't know what he can
16:58:05 8 do.

16:58:06 9 Q. But if you compare the money that he has generated in
16:58:11 10 breeding as compared to the half million or so that he won, as a
16:58:16 11 breeding stallion, he's been worth much more, correct?

16:58:20 12 MR. GARDNER: Your Honor, at this point, I'm going to
16:58:21 13 object to the relevance. And Mr. Womack said he had four
16:58:24 14 questions and I believe that's nine.

16:58:28 15 MR. WOMACK: Sorry, your Honor. That is the last
16:58:29 16 question.

16:58:30 17 THE COURT: He really isn't asking any questions. He's
16:58:32 18 just -- no, no, no, no. He's just making a statement and asking
16:58:36 19 the witness if he agreed. And if you objected to leading, I
16:58:41 20 would have sustained it. But he can answer the question.

16:58:44 21 A. But I didn't understand you. If you repeat that, please.

16:58:47 22 Q. (BY MR. WOMACK) You told us that Corona Cartel won about a
16:58:51 23 half a million dollars racing. And if you compare that to the
16:58:57 24 amount of money he has made for his owner as a breeding stallion,
16:59:02 25 the money he has made breeding is far greater than his winnings

16:59:06 1 as a race horse, correct?

16:59:08 2 A. Yes, sir.

16:59:09 3 MR. GARDNER: Your Honor, objection. Leading.

16:59:10 4 THE COURT: Sustained.

16:59:16 5 Q. (BY MR. WOMACK) Comparing his winnings as a race horse to

16:59:18 6 the amount of money that he has made as a breeding stallion,

16:59:21 7 which is greater?

16:59:22 8 MR. GARDNER: Your Honor, objection.

16:59:24 9 MR. WOMACK: It's "Yes" or "No." It's not leading.

16:59:27 10 MR. GARDNER: Relevance. That's a different objection.

16:59:31 11 It's repetitive, your Honor.

16:59:32 12 THE COURT: It is repetitive, too, and it's repetitive

16:59:34 13 with the witness. But hopefully the gentleman can answer the

16:59:37 14 question or not.

16:59:51 15 A. As a breeding stallion.

16:59:53 16 MR. WOMACK: Thank you. No further questions, your

16:59:54 17 Honor.

16:59:59 18 CROSS-EXAMINATION

16:59:59 19 BY MR. ESPER:

17:00:02 20 Q. Mr. Gomez, in the 25 years as a trainer, you have always

17:00:06 21 focused on training the horses, correct?

17:00:09 22 A. Yes, sir.

17:00:11 23 Q. The collection of money and the billing, you leave to an

17:00:15 24 accountant or a bookkeeper, correct?

17:00:29 25 A. When it's a large bill or account, it's in the hands of the

17:00:35 1 accountant. Give it to the accountant. I don't touch it.

17:00:38 2 Q. Thank you, sir.

17:00:40 3 THE COURT: Mr. Mayr.

17:00:42 4 MR. MAYR: With that, your Honor, I have no further
17:00:44 5 questions.

17:00:44 6 MR. FINN: No objection.

17:00:45 7 THE COURT: All right.

17:00:48 8 MR. GARDNER: Nothing further, your Honor. Thank you.
17:00:49 9 May this witness be excused?

17:00:51 10 THE COURT: You may be excused, sir.

17:00:54 11 MR. GARDNER: Your Honor, the government would call Mr.
17:00:57 12 Juan Aleman.

17:01:23 13 (Witness sworn.)

17:01:36 14 THE COURT: Tell us your full name and spell your last,
17:01:41 15 please.

17:01:41 16 THE WITNESS: Juan Gabino-Aleman. Last name is
17:01:45 17 spelled, A-L-E-M-A-N.

17:01:47 18 JUAN GABINO-ALEMAN, called by the Government, duly sworn.

17:01:47 19 DIRECT EXAMINATION

17:01:47 20 BY MR. GARDNER:

17:01:49 21 Q. Good afternoon, Mr. Aleman.

17:01:50 22 A. Afternoon.

17:01:50 23 Q. Could you please introduce yourself for the jury and tell
17:01:53 24 them how old you are and what you do for a living?

17:01:55 25 A. My name is Juan G. Aleman and I'm a trainer at Los Alamitos

17:02:00 1 race track, been training for 15 years.

17:02:05 2 Q. Sir, were you ever approached on behalf of a company called
17:02:09 3 Bonanza Racing Stables to train horses?

17:02:12 4 A. Yes.

17:02:13 5 Q. And when was that roughly?

17:02:20 6 A. October 2011.

17:02:23 7 Q. And who approached you for that?

17:02:24 8 A. Fernando.

17:02:30 9 Q. And do you see an individual you know as Fernando in the
17:02:33 10 courtroom today?

17:02:34 11 A. Yes.

17:02:34 12 Q. And that's Fernando Garcia, the defendant standing up with
17:02:37 13 the purple shirt?

17:02:38 14 A. Yes.

17:02:39 15 Q. Your Honor, may the record reflect the witness has
17:02:41 16 identified the Defendant Fernando Garcia?

17:02:43 17 THE COURT: It does so reflect.

17:02:45 18 MR. GARDNER: Thank you, your Honor.

17:02:46 19 Q. (BY MR. GARDNER) And what discussions did you have with
17:02:48 20 Fernando Garcia with regards to Bonanza Racing Stables?

17:02:55 21 A. Just delivery of papers of registration papers.

17:02:59 22 Q. For the horses that you were supposed to train?

17:03:00 23 A. Yes, sir.

17:03:01 24 Q. May I have one moment, your Honor?

17:03:10 25 And do you recall right offhand, the top of your head,

17:03:12 1 what horses you were going to train?

17:03:14 2 A. I can remember a few but not all of them off the top of my

17:03:23 3 head.

17:03:23 4 Q. Just give me the ones you can, please.

17:03:25 5 A. Cartel Straw, Dashing Dude. I can't recall the rest.

17:03:41 6 Q. And when did you receive those horses?

17:03:46 7 A. Roughly, November of 2011.

17:03:52 8 Q. And do you prepare a billing statement for your training

17:03:55 9 fees?

17:03:55 10 A. Yes, I do.

17:03:56 11 Q. And how was that billing statement forwarded to the person

17:04:04 12 responsible for the bills? Did you hand them to Fernando Garcia?

17:04:06 13 A. No. I did not.

17:04:07 14 Q. Okay. So how did you get the bills to whoever?

17:04:10 15 A. I e-mailed them.

17:04:11 16 Q. Okay. Who provided you that e-mail address?

17:04:13 17 A. I was texted by Fernando by e-mail.

17:04:17 18 Q. Do you recall that e-mail?

17:04:19 19 A. I can't. Off the top of my head, I cannot.

17:04:21 20 Q. Anri2319@hotmail refresh your memory?

17:04:25 21 A. That sounds familiar. Yes.

17:04:26 22 Q. I'm showing you Government's Exhibit 358G. And, again, Mr.

17:04:31 23 Aleman, was that the e-mail provided to you by the Defendant

17:04:35 24 Fernando Garcia?

17:04:36 25 A. Yes.

17:04:38 1 Q. And what was your understanding of the billing that you were
17:04:42 2 to be provided to that e-mail address?

17:04:45 3 A. All the racing -- race training was to be delivered to that
17:04:51 4 e-mail.

17:04:52 5 Q. And how did you get paid?

17:04:55 6 A. I was -- they would deposit my account.

17:04:59 7 Q. And did you trace the source of those deposits, or was there
17:05:03 8 wire, or was it check, or how was it paid?

17:05:05 9 A. They just showed up on the account as deposits.

17:05:10 10 Q. Do you have a bookkeeper?

17:05:11 11 A. Yes, I do.

17:05:12 12 Q. Mr. Aleman, I'm going to show you Government's Exhibit 313.

17:05:19 13 And I know you've signed this and it's been attested to in
17:05:24 14 California, but could you look through those real quick and tell
17:05:27 15 me if those are the records you provided to the government?

17:05:29 16 A. Yes, sir.

17:05:44 17 Q. And what company do you operate your training business
17:05:47 18 under, Mr. Aleman?

17:05:48 19 A. JGA Racing Stables.

17:05:51 20 Q. These are the business records for JGA Racing Stables?

17:05:54 21 A. Yes, sir.

17:05:55 22 Q. Your Honor, I offer Government's Exhibit 313.

17:06:01 23 THE COURT: They're received. Excuse me.

17:06:18 24 MR. GARDNER: Bates 58, your Honor, I apologize.

17:07:14 25 MR. FINN: Could we approach, your Honor?

17:07:20 1 (At the bench, on the record.)

17:07:22 2 MR. FINN: Judge, this is not his signature, Doug tells
17:07:26 3 me. And this, quote, unquote, affidavit is not notarized. I
17:07:34 4 insisted that he lay the business record predicate, and he said
17:07:35 5 he didn't want to do that and so.

17:07:48 6 MR. GARDNER: It's a California business record
17:07:50 7 affidavit. Mr. Finn does also have this. He knows it's a
17:07:54 8 business record, he knows it's an affidavit.

17:07:58 9 MR. FINN: It's incomplete. I wouldn't object if it
17:08:02 10 were complete. It's just not.

17:08:03 11 THE COURT: I didn't allow their exhibits for the same
17:08:06 12 reason, Mr. Gardner, and that is they were not notarized or
17:08:13 13 self-proven.

17:08:14 14 MR. FINN: Your Honor, Mexico.

17:08:18 15 THE COURT: So I sustain the objection.

17:08:20 16 MR. GARDNER: This is my fault.

17:08:21 17 MS. FERNALD: I'm sorry. I didn't want to --

17:08:24 18 THE COURT: We didn't get a second page.

17:08:28 19 MR. GARDNER: I apologize, your Honor. I did not show
17:08:30 20 that to Mr. Finn.

17:08:42 21 MR. FINN: There's still a problem. This is not his
17:08:45 22 signature. It's somebody named Patel.

17:08:49 23 THE COURT: It's probably Patel's records.

17:08:54 24 MR. FINN: I don't know whose records it is but he --
17:08:58 25 you know, all Doug said --

17:08:59 1 THE COURT: Well, Patel is the notary. And Juan
17:09:10 2 Gabino-Aleman did the swearing.

17:09:12 3 MR. FINN: I've still got to object, Judge.

17:09:13 4 THE COURT: Well, that objection is overruled. It's
17:09:15 5 admitted.

17:09:39 6 Q. (BY MR. GARDNER) In addition to training for Bonanza, did
17:09:46 7 you also train for an individual by the name of "Pancho"
17:09:50 8 Colorado?

17:09:50 9 A. Yes, sir.

17:09:51 10 Q. Okay. Do you recognize him in the courtroom here today?
17:09:56 11 You may have to stand up.

17:09:57 12 A. Yes, sir.

17:09:57 13 Q. The individual standing with the blue tie? And when were
17:10:02 14 you approached to train Defendant Colorado's horses?

17:10:05 15 A. The end of October, early November of 2011.

17:10:19 16 Q. The same time you were approached on Bonanza?

17:10:22 17 A. Yes, sir.

17:10:22 18 Q. And who was handling the arrangements for that, if you
17:10:28 19 recall?

17:10:30 20 A. I don't recall.

17:10:32 21 Q. And your records that were just introduced as Government's
17:10:36 22 Exhibit 313, that reflects your billing statements for both
17:10:39 23 Bonanza and Defendant Colorado?

17:10:42 24 A. Separate accounts. Yes.

17:10:43 25 Q. Separate accounts.

17:10:49 1 Now, when you're training a horse, who handles the vet
17:10:55 2 bills? Does the trainer or the owner?

17:10:58 3 A. The veterinary bills is -- bills the owner.

17:11:04 4 Q. Could you explain that to the jury? What happens if a horse
17:11:08 5 gets sick, what happens?

17:11:09 6 A. Well, as a trainer, I call the veterinarian, veterinarian
17:11:14 7 comes, checks the horse out, and he writes the horse's name, and
17:11:18 8 they go ahead and follow up and do the billing directly to the
17:11:22 9 owner.

17:11:22 10 Q. Was it your practice to ever pay for vet bills for an owner?

17:11:30 11 A. Unless a special arrangement is made.

17:11:33 12 Q. But normal practice is the owner pays for the vet bills?

17:11:36 13 A. Yes, sir.

17:11:36 14 Q. May I have one moment, your Honor?

17:11:39 15 THE COURT: Yes, sir.

17:11:54 16 MR. GARDNER: Your Honor, I'll pass the witness.

17:11:57 17 THE COURT: Mr. Finn.

17:12:02 18 MR. FINN: No questions, Judge.

17:12:05 19 MR. DEGEURIN: No, your Honor.

17:12:06 20 MR. WOMACK: Briefly, your Honor.

17:12:07 21 CROSS-EXAMINATION

17:12:07 22 BY MR. WOMACK:

17:12:08 23 Q. Mr. Aleman?

17:12:09 24 A. Yes.

17:12:10 25 Q. I'm Guy Womack from Houston. Do you know Fernando Garcia?

17:12:16 1 A. I do not know him.

17:12:19 2 Q. Do you not recognize him?

17:12:21 3 A. I recognize him now.

17:12:21 4 Q. Okay. That's Fernando Garcia. Correct?

17:12:24 5 A. Yes.

17:12:25 6 Q. Okay. And you've known Fernando for a number of years?

17:12:29 7 A. No.

17:12:30 8 Q. You don't know him as a fellow trainer?

17:12:32 9 A. No.

17:12:33 10 Q. Okay. Do you know that he represents a number of buyers and

17:12:37 11 sellers of horses?

17:12:38 12 A. I briefly met Fernando but I had no -- not much

17:12:43 13 communication with him.

17:12:43 14 Q. Okay. And you met him in connection with him representing

17:12:48 15 horse buyers and sellers?

17:12:50 16 A. Yes.

17:12:50 17 Q. Okay. Now, with regards to this Bonanza Racing Stables,

17:12:58 18 that was the first time you had dealt with Bonanza Racing

17:13:01 19 Stables?

17:13:01 20 A. Yes, sir.

17:13:02 21 Q. And Fernando Garcia told you that you needed to submit bills

17:13:09 22 and statements to Bonanza to use that e-mail address, that Anri,

17:13:12 23 whatever?

17:13:12 24 A. Yes.

17:13:14 25 Q. Okay. Thank you. No further questions.

17:13:24 1 THE COURT: Mr. Esper?

17:13:26 2 MR. ESPER: I have no questions, your Honor.

17:13:28 3 MR. MAYR: Nor do I, your Honor.

17:13:28 4 RE-DIRECT EXAMINATION

17:13:28 5 BY MR. GARDNER:

17:13:31 6 Q. So, Mr. Aleman, your 15 years as a trainer at Los Alamitos,
17:13:34 7 did you encounter the Defendant Fernando Garcia on what you would
17:13:39 8 term a regular basis?

17:13:40 9 A. No.

17:13:40 10 Q. Thank you, your Honor. That's all I have.

17:13:42 11 THE COURT: May this witness be excused?

17:13:44 12 MR. GARDNER: Please, your Honor.

17:13:45 13 THE COURT: You may be excused.

17:13:46 14 THE WITNESS: Thank you.

17:13:53 15 MR. GARDNER: Your Honor, the government would call

17:13:55 16 Raul Guadalajara. He's an in-custody witness.

17:15:03 17 (Witness sworn.)

17:15:21 18 THE COURT: Tell us your full name, please, sir.

17:15:32 19 THE WITNESS: Raul Guadalajara-Guia.

17:15:34 20 THE COURT: Would you spell Guadalajara, please?

17:15:36 21 THE WITNESS: G-U-A-D-A-L-A-J-A-R-A.

17:15:40 22 RAUL GUADALAJARA GUIA, called by the Government, duly sworn.

17:15:40 23 DIRECT EXAMINATION

17:15:40 24 BY MR. GARDNER:

17:15:42 25 Q. Thank you, your Honor.

17:15:42 1 I believe, Mr. Guadalajara, you also said Guia there at
17:15:45 2 the end. That's G-U-I-A, correct?

17:15:48 3 A. Yes.

17:15:48 4 Q. That's your full name?

17:15:49 5 A. Yes.

17:15:50 6 Q. Mr. Guadalajara, you and I have met. Could you please
17:15:55 7 introduce yourself to the jury? Tell them how old you are, where
17:15:57 8 you're from, and what you did before you were incarcerated.

17:16:00 9 A. I'm from San Antonio. I was born in San Antonio, Texas.
17:16:05 10 And I was raised in Mexico and I'm 40 years old.

17:16:09 11 Q. And are you a United States citizen?

17:16:13 12 A. Yes, sir.

17:16:14 13 Q. And, sir, have you been not convicted but have you pled
17:16:19 14 guilty to drug charges in San Antonio?

17:16:20 15 A. Yes, sir, I did.

17:16:21 16 Q. All right. Are you pending sentencing for that offense?

17:16:25 17 A. Yes, sir.

17:16:26 18 Q. And, sir, if you will, are you also pending charges in the
17:16:29 19 Eastern District of Texas in Sherman for drug charges, as well?

17:16:34 20 A. Yes, sir.

17:16:36 21 Q. What do you hope to get out of your testimony here today,
17:16:39 22 sir?

17:16:39 23 A. Just time off.

17:16:43 24 Q. Time off your sentence, whatever that may be?

17:16:45 25 A. Yes, sir.

17:16:45 1 Q. And do you understand that it's not going to be the judge
17:16:47 2 who makes that determination?

17:16:48 3 A. Yes, sir. I understand that.

17:16:49 4 Q. If you will, sir, do you know an individual by the name of
17:16:54 5 "Poncho" Cuellar?

17:16:55 6 A. Yes, sir.

17:16:56 7 Q. Could you please tell the jury how you first met "Poncho"
17:17:00 8 Cuellar?

17:17:00 9 A. "Poncho" Cuellar, I met him by one of my friends when he --
17:17:04 10 they sent him to get a load of marihuana in a house. That's how
17:17:08 11 I met him and then, I started working for him.

17:17:11 12 Q. Sir, if you will, could you speak up just a little bit?

17:17:14 13 A. I started working for him bringing drugs over here, just
17:17:17 14 like going in the front, checking that they get past the
17:17:21 15 checkpoint and where they were going to.

17:17:24 16 Q. And so, after being introduced to Mr. Cuellar, what did you
17:17:28 17 end up doing for him?

17:17:29 18 A. Just bringing the cocaine over here to United States, going
17:17:34 19 in front, checking that they get to the part they were going.

17:17:38 20 Q. And where would you transfer the cocaine from in Mexico?

17:17:41 21 A. From Nava, Coahuila, Piedras Negras.

17:17:45 22 Q. Piedras Negras?

17:17:45 23 A. Yes, sir.

17:17:46 24 Q. And where would you take the cocaine to?

17:17:47 25 A. Sometimes San Antonio, sometimes Dallas.

17:17:52 1 Q. How long did you transport cocaine for Mr. Cuellar?

17:17:55 2 A. For three years, four years.

17:17:57 3 Q. And would you also be responsible for taking the money back
17:18:05 4 into Mexico from the sale of cocaine?

17:18:07 5 A. I was responsible for receiving the money up there and just
17:18:10 6 to separate haul it and take it to "Cuno." That was bookkeeper
17:18:16 7 for "Zeta Cuarenta."

17:18:26 8 Q. Do you recognize that person on the screen, sir?

17:18:28 9 A. Yes, sir.

17:18:28 10 Q. And who is that?

17:18:29 11 A. Miguel Angel Morales, "Zeta Cuarenta."

17:18:44 12 Q. That's Government's Exhibit 335A. Could you pull up 335B,
17:18:48 13 please? Do you recognize that individual, sir?

17:18:52 14 A. Yes, sir. That's his brother "Zeta Cuarenta Dos."

17:18:57 15 Q. So when you say you separated the money, what would you mean
17:19:01 16 by that?

17:19:02 17 A. The small bills like marking it, we would clean it, we would
17:19:07 18 take it away, and we only keep the 20 and the largest bills.

17:19:10 19 Q. Okay. So when you say clean the small bills, what do you
17:19:13 20 mean by that?

17:19:13 21 A. Nothing they had like a pen or writing on it, they don't
17:19:17 22 want that. We have to take that out of the way and just get like
17:19:20 23 the 20, 50, 100s with no marks or anything like that.

17:19:23 24 Q. When you say "they," are you referring to "Cuarenta" and a
17:19:27 25 "Cuarenta Dos"?

17:19:28 1 A. Uh-huh. Yes, sir.

17:19:29 2 Q. How did you come to get arrested and placed in jail?

17:19:34 3 A. In San Antonio?

17:19:35 4 Q. Yes, sir.

17:19:36 5 A. With cocaine. One of my friends sent me cocaine from Mexico

17:19:41 6 and they set me up. That's how I got arrested.

17:19:44 7 Q. And do you remember how much cocaine they sent you?

17:19:47 8 A. They sent me -- the first time, they sent me seven keys and

17:19:50 9 then five.

17:19:52 10 Q. And was that person cooperating with the government?

17:19:55 11 A. Yes, sir.

17:19:56 12 Q. Set you up?

17:19:57 13 A. Uh-huh.

17:19:57 14 Q. And did you, in fact, have five or seven keys on two

17:20:01 15 separate occasions?

17:20:02 16 A. Yes, sir.

17:20:02 17 Q. So when was the first time you met "40" and "42"?

17:20:07 18 A. 2008. We were Piedras Negras, Chapa. There was a truck

17:20:14 19 next to the airport, Chapa was the owner.

17:20:18 20 Q. And who was -- I'm sorry. I interrupted.

17:20:21 21 A. And they wanted to see a horse race so we were there.

17:20:25 22 That's where I met.

17:20:26 23 Q. In Piedras Negras?

17:20:27 24 A. Yes, sir.

17:20:29 25 Q. And this Chapa, do you recall the first name of this?

17:20:32 1 A. Hector.

17:20:32 2 Q. Hector?

17:20:33 3 A. Yes.

17:20:33 4 Q. And what did Hector do for a living?

17:20:36 5 A. He's a lawyer in Piedras Negras.

17:20:37 6 Q. Do you know if Hector Chapa has a brother who's a

17:20:41 7 veterinarian?

17:20:41 8 A. Yes, sir.

17:20:41 9 Q. And what's that person's name?

17:20:43 10 A. Gerardo.

17:20:43 11 Q. Gerardo Chapa?

17:20:45 12 A. Yes, sir.

17:20:46 13 Q. Let me come back to Mr. Gerardo Chapa in a second. Do you

17:20:55 14 know a person named "Mamito"?

17:20:58 15 A. Yes, sir.

17:20:58 16 Q. And how do you know him?

17:20:59 17 A. I met him there at the same place.

17:21:02 18 Q. And, again, I didn't understand the name of the place.

17:21:06 19 Could you repeat the name of the place?

17:21:07 20 A. It was Guala Heridad (phonetic). They had like a barn

17:21:11 21 there. It belongs to Chapa's dad, to Hector's dad.

17:21:14 22 Q. And what was going on at this meeting?

17:21:16 23 A. They just wanted to see a horse race there.

17:21:21 24 Q. When you say a horse race.

17:21:23 25 A. "Zeta Cuarenta," "42," they wanted to see the race against

17:21:26 1 another one. It was just like a race, number race.

17:21:29 2 Q. Was it a public race for everyone?

17:21:33 3 A. No. It was just for them.

17:21:34 4 Q. Okay. A small match race?

17:21:35 5 A. Yeah. "Mamito" and "Zeta Cuarento" and all them -- "Metro"
17:21:39 6 was there, also.

17:21:40 7 Q. "Metro"?

17:21:41 8 A. Yeah, from Piedras Negras.

17:21:42 9 Q. And I think the jury's heard testimony. Was he the plaza
17:21:46 10 boss of Piedras Negras?

17:21:47 11 A. Yes, sir. At the time, he was the plaza boss.

17:21:50 12 Q. Do you know much about quarter horses?

17:21:52 13 A. Yes. I know a little bit of quarter horses.

17:21:56 14 Q. And is that from your experience with the Zetas?

17:21:59 15 A. It was with them.

17:22:00 16 Q. Do you know a horse or familiar with a horse called Tempting
17:22:04 17 Dash?

17:22:04 18 A. Yes, sir, I know.

17:22:05 19 Q. And do you recall if that horse had another name before?

17:22:08 20 A. Just called it a "Huesos" in Mexico.

17:22:15 21 Q. And now, going back to Gerardo Chapa, was he the
17:22:18 22 veterinarian for that horse?

17:22:20 23 A. Yes.

17:22:21 24 Q. And who dealt with that horse while it was in Mexico?

17:22:26 25 A. The trainer?

17:22:28 1 Q. Who was responsible for the horse, I guess is a better
17:22:31 2 question?

17:22:33 3 A. At the time the trainer was Pedro. That was his name and
17:22:39 4 "Poncho" was the one that made like the payments there.

17:22:41 5 Q. When you say "Poncho," that's Mr. Cuellar?

17:22:44 6 A. Mario Cuellar.

17:22:48 7 Q. Whose horse was Tempting Dash really?

17:22:52 8 A. It belonged to "Zeta 40." And "Zeta 42." That's what they
17:23:00 9 told me.

17:23:00 10 Q. Did either "40" or "42" buy any other horses?

17:23:03 11 A. Yes, they did.

17:23:04 12 Q. Did that occur in Mexico or did that occur in the United
17:23:07 13 States?

17:23:07 14 A. No. They buy all the horses here in the United States.

17:23:11 15 Q. Do you know where they would buy them?

17:23:12 16 A. They bought them at auctions, like Heritage Place, New
17:23:16 17 Mexico, and somewhere in California.

17:23:19 18 Q. And did "40" ever tell you how much money he spent on horses
17:23:23 19 in the U.S.?

17:23:24 20 A. There was a time when we were after the race with

17:23:28 21 Mr. Piloto, I met "40" in the gas station outside of Sabinas,
17:23:32 22 Mexico, and he told me that he spent like \$4 million.

17:23:35 23 Q. This was after the All American Futurity?

17:23:37 24 A. Yes, sir.

17:23:39 25 Q. And are you aware if there was an auction associated with

17:23:42 1 that race? I'm sorry. Was there an auction about the same time
17:23:47 2 as that race?

17:23:47 3 A. Yeah. Before the futurity, there was an auction before the
17:23:51 4 All American Futurity.

17:23:53 5 Q. Before the All American Futurity?

17:23:54 6 A. Yes, sir.

17:23:55 7 Q. Now, when you mentioned the All American Futurity, were you
17:24:01 8 present watching that race on the internet?

17:24:03 9 A. Yes, sir.

17:24:03 10 Q. And who was -- who else was present?

17:24:05 11 A. Its was "Zeta 42," Comandante Carlos, Mario Cuellar, Hector
17:24:14 12 Moreno, "Huecho" and "la Vispa." There was also "El Chihuas"
17:24:24 13 (phonetic). He was the commander-in-chief of the Cinco
17:24:29 14 Manantiales.

17:24:29 15 Q. These people, you identify them by their nicknames. Was
17:24:31 16 that the only names you knew them by?

17:24:33 17 A. Yes, sir.

17:24:33 18 Q. And did you watch this race on TV, or did you watch it over
17:24:37 19 the internet?

17:24:38 20 A. It was a computer connected to the TV.

17:24:42 21 Q. And do you know if someone logged into that computer to
17:24:46 22 watch that race?

17:24:47 23 A. Someone sent a code for "Zeta Cuarenta" so they could put it
17:24:52 24 in there.

17:24:53 25 Q. Do you know what that code was?

17:24:54 1 A. No, sir. I don't know.

17:24:58 2 Q. And during the watching of that race on the internet, did
17:25:02 3 "40" or "42" say anything about fixing that race?

17:25:05 4 A. He said that they had gave the gates \$10,000. He mentioned
17:25:11 5 to us, to everybody that was in the room.

17:25:13 6 Q. Everyone that was in the room?

17:25:15 7 A. Yes, sir.

17:25:15 8 Q. And what did you understand that to mean, the gates \$10,000?

17:25:18 9 A. He says like they want to let his horse go first or get --
17:25:23 10 when it was ready to open the gate, not wait for other ones.

17:25:28 11 Q. During that internet-watching party Mr. Piloto, did "40" or
17:25:34 12 "42" mention their brother Jose?

17:25:35 13 A. Yes, he did.

17:25:36 14 Q. Okay. And who did?

17:25:37 15 A. "40."

17:25:38 16 Q. And what did he say, sir?

17:25:40 17 A. He said that after waking every day at 5:00 in the morning
17:25:44 18 to go to work, his brother never imagined himself at the race
17:25:47 19 with the horses business.

17:25:51 20 Q. And have you ever met Jose Trevino?

17:25:52 21 A. No, sir. I never met him.

17:25:55 22 Q. And did "40" have a nickname for him or something he called
17:25:59 23 him?

17:25:59 24 A. Yes, he did.

17:25:59 25 Q. And what was that?

17:26:00 1 A. He called him compadre.

17:26:02 2 Q. And who did you understand compadre to be?

17:26:05 3 A. His brother.

17:26:08 4 Q. Do you know Carlos Nayen?

17:26:09 5 A. Yes, I do.

17:26:10 6 Q. Do you recognize that photo, sir, on the screen?

17:26:17 7 A. Yes, sir.

17:26:18 8 Q. And who do you recognize that photo as?

17:26:19 9 A. That's Carlitos, Carlos Nayen.

17:26:22 10 Q. And what was his role for the Zetas?

17:26:25 11 A. He would go buy the horses at the auction, and what I

17:26:29 12 understand, he was a trainer for Mr. Piloto.

17:26:33 13 Q. Your understanding was that Carlos Nayen was the trainer for

17:26:36 14 Mr. Piloto?

17:26:36 15 A. Yes, sir.

17:26:36 16 Q. And where did you get that information from?

17:26:39 17 A. When we were there watching the TV, he would tell us.

17:26:43 18 "Cuarenta" would tell us that.

17:26:44 19 Q. During Mr. Piloto race?

17:26:48 20 A. Yes, sir.

17:26:48 21 Q. Did "40" ever mention the name of Fernando Garcia as being

17:26:51 22 the trainer for that race?

17:26:52 23 A. No. He never mentioned that.

17:26:59 24 Q. And on the occasion when you would meet Carlos Nayen, what

17:27:06 25 would you do with him or for him?

17:27:08 1 A. I would take him to a safe house in Nava. Sometime he will
17:27:12 2 wait for "Zeta 40" or sometimes I will take him to meet "Zeta 40"
17:27:16 3 and "42" in Nava, Coahuila.

17:27:19 4 Q. Is that right across the border from Piedras Negras?

17:27:21 5 A. Yes, sir. Like 40 kilometer. Every time Carlos would get
17:27:25 6 back from United States to Mexico, I would pick him up. There
17:27:27 7 was a time when he had a trophy from Ruidoso that he was the most
17:27:32 8 valuable buyer or he was the one that buy the most expensive
17:27:36 9 horses.

17:27:37 10 Q. And that's at the auction?

17:27:38 11 A. Yes, sir.

17:27:39 12 Q. Do you know an individual by the name of "Yo Yo"?

17:27:45 13 A. Yes, sir. I do.

17:27:47 14 Q. And how do you know?

17:27:48 15 A. He's the one that took him where I could pick him up.

17:27:52 16 Q. All right. Pick up Mr. Nayan?

17:27:54 17 A. Yes, sir. In Piedras Negras, in the gas station. And there
17:27:57 18 was a time, also, I took some money for horse expenses in Hidalgo
17:28:02 19 for "Yo Yo."

17:28:02 20 Q. And what was this "Yo Yo's" relationship to Carlos Nayan?

17:28:06 21 A. I think he worked for Carlos. That's what he told me that.

17:28:09 22 Q. So he was Carlos' worker?

17:28:11 23 A. Yes, sir.

17:28:12 24 Q. And do you know what he did for Carlos?

17:28:15 25 A. I guess sent the money for -- we gave money to "Yo Yo," and

17:28:20 1 "Yo Yo" would send it to Carlos to United States.

17:28:22 2 Q. And do you recall how much money you or your crew sent to

17:28:28 3 "Yo Yo"?

17:28:28 4 A. There was a time we sent like \$150,000, and there was

17:28:31 5 another time we sent like \$300,000.

17:28:37 6 Q. And did "40" ever mention about putting horses in different

17:28:41 7 companies?

17:28:43 8 A. He said one time that they make false companies to where

17:28:50 9 they couldn't tell the difference when they buy horses.

17:28:52 10 Q. And did "40" ever mention on any occasion about changing the

17:28:56 11 names of the owners of the horses?

17:28:59 12 A. No. He never mentioned that.

17:29:00 13 Q. Did "40" ever mention about altering the documents of the

17:29:05 14 horses?

17:29:06 15 A. Yes, he did.

17:29:06 16 Q. Could you tell the jury about that, please?

17:29:08 17 A. They would buy them -- when the horse buy expensive, they

17:29:13 18 would only say that the horse wasn't that good so they would sell

17:29:16 19 it cheaper to his brother.

17:29:17 20 Q. Okay. I'm sorry. Could you repeat that question? You're

17:29:21 21 speaking a little fast. Could you slow down for me a second?

17:29:24 22 A. When first buying the horses was so expensive, they would

17:29:27 23 say that that horse was not good so they would send it to his

17:29:29 24 brother cheaper.

17:29:31 25 Q. Let me see if I get this straight. They would buy a horse

17:29:35 1 and if that horse would perform poorly, is that what you're
17:29:39 2 saying?

17:29:39 3 A. Yes, sir.

17:29:39 4 Q. And what would they do, then, if they had a poor-performing
17:29:43 5 horse?

17:29:43 6 A. Just wasn't worth it what they paid for it.

17:29:46 7 Q. So --

17:29:46 8 A. So they would sell it cheaper.

17:29:48 9 Q. So they would sell cheaper?

17:29:49 10 A. Yes. That was supposed -- that's how they would make it.

17:29:52 11 Q. And I'm sorry. I'm not sure I understand. When you sell it
17:29:55 12 cheaper, who would they sell it to cheaper to?

17:29:57 13 A. Like the one that first owned it would send it back. They
17:30:02 14 were like saying they would sell it back to him.

17:30:03 15 Q. So you had the first owner with the expensive horse who
17:30:07 16 would not run well?

17:30:08 17 A. Uh-huh.

17:30:08 18 Q. And then, it would be sold back to that first owner?

17:30:11 19 A. Yes, sir.

17:30:12 20 Q. And why was that?

17:30:13 21 A. So that whoever was paying attention, how much they were
17:30:18 22 paying for it.

17:30:20 23 Q. Was that a way for the Zetas to clean money?

17:30:23 24 A. Yes, sir.

17:30:26 25 Q. Do you know an individual named "Chevo" Huitron?

17:30:30 1 A. Yes, I do.

17:30:31 2 Q. And how do you know him, sir?

17:30:33 3 A. I met him in Mexico a long time ago. He had a horse by the
17:30:37 4 name of Uncle George.

17:30:42 5 Q. Do you see an individual you know as "Chevo" Huitron in the
17:30:45 6 courtroom today?

17:30:46 7 A. Yes.

17:30:47 8 Q. If you need to stand up, please do.

17:30:48 9 A. Yes, I do.

17:30:49 10 Q. You do? Could you point him out to me, tell me something
17:30:54 11 he's wearing?

17:30:55 12 A. It's him right there.

17:30:55 13 Q. The individual standing?

17:30:57 14 A. Yes, sir.

17:30:57 15 Q. Your Honor, may the record reflect the witness has
17:30:59 16 identified "Chevo" Huitron?

17:31:02 17 THE COURT: Does.

17:31:04 18 Q. (BY MR. GARDNER) Did you ever send cash to "Chevo" Huitron?

17:31:07 19 A. One time I did, sir.

17:31:08 20 Q. Okay. How much?

17:31:09 21 A. \$15,000.

17:31:11 22 Q. And what was that cash for?

17:31:12 23 A. For horse expenses.

17:31:14 24 Q. Did you send it or did you take it yourself?

17:31:17 25 A. No. I sent someone -- one of my workers.

17:31:21 1 Q. And that cash that you sent to Mr. Chevo Huitron, where did
17:31:24 2 that cash come from?

17:31:25 3 A. From the sale of drugs that I sold in San Antonio.

17:31:29 4 Q. And who directed you to make that payment?

17:31:32 5 A. What?

17:31:33 6 Q. Who told you to make that payment?

17:31:34 7 A. "Poncho" Cuellar.

17:31:39 8 Q. And was there a point after that delivery that you were
17:31:43 9 reprimanded for -- yeah, reprimanded for something that went on
17:31:50 10 during that delivery?

17:31:50 11 A. They told me to send a package of something for horses.
17:31:55 12 It's called Imoterol (phonetic) or something like that.

17:31:59 13 Q. Clenbuterol?

17:31:59 14 A. Yeah. That.

17:32:00 15 Q. Okay. And then, so what happened after the delivery?

17:32:02 16 A. After the delivery, that guy was playing with "Chevo," he
17:32:08 17 asked him for some kilos, and "Chevo" in not less than 20
17:32:13 18 minutes, got in contact with "Zeta 40," and I got in trouble with
17:32:16 19 that back there in Mexico.

17:32:17 20 Q. And so, when your driver was telling "Chevo" Huitron where
17:32:24 21 are the kilos, was he being serious or was he joking?

17:32:26 22 A. No. He was just joking, sir.

17:32:28 23 Q. But somehow that information got back to "40"?

17:32:32 24 A. Yes, sir. Less than 30 minutes.

17:32:34 25 Q. Do you know if your driver called and told that information

17:32:38 1 to "40"?

17:32:38 2 A. No. Not my driver, sir.

17:32:40 3 Q. Okay. Do you know who called and told "40" about that

17:32:43 4 incident?

17:32:44 5 A. I have no idea who called them.

17:32:49 6 Q. And do you know an individual named "Pancho" Colorado?

17:32:52 7 A. Yes, I do, sir.

17:32:53 8 Q. And do you see him in the courtroom today?

17:32:55 9 A. Yes, sir.

17:33:01 10 Q. Could you identify?

17:33:03 11 A. The one in the gray suit.

17:33:05 12 Q. Gray suit without the tie, the white shirt?

17:33:08 13 A. Yes, sir.

17:33:08 14 Q. Thank you, sir. Your Honor, may the record reflect the

17:33:11 15 witness has identified "Pancho" Colorado?

17:33:13 16 THE COURT: So reflects.

17:33:14 17 Q. (BY MR. GARDNER) Mr. Guadalajara, when did you first

17:33:20 18 encounter the Defendant Colorado?

17:33:25 19 A. There was a race in Morelos, Coahuila. We were trying out

17:33:29 20 the new -- the yearlings and "Pancho" Colorado was there with

17:33:33 21 "Zeta Cuarenta" at the finish line.

17:33:34 22 Q. When you say trying out, I think you said yearlings?

17:33:37 23 A. Yes. The yearling.

17:33:38 24 Q. The new horses?

17:33:39 25 A. Yes, sir.

17:33:40 1 Q. When you say he was at the finish line, was this a public
17:33:45 2 race open to everyone?

17:33:46 3 A. It was a private race just for Zetas. There was like 80
17:33:51 4 armed people there.

17:33:52 5 Q. I'm sorry, you said they were armed people there?

17:33:53 6 A. Yes, sir.

17:33:54 7 Q. Okay. Describe that for the jury, please.

17:33:56 8 A. They had vests and R-15s, AK-47s, hand grenades, they had
17:34:02 9 everything. It was only like 80 people and just us.

17:34:06 10 Q. And who were those people protecting?

17:34:08 11 A. "Zeta Cuarenta" and "42." "Mamito" was also in there.
17:34:12 12 Carlos Nayan was there, too.

17:34:13 13 Q. When you say they were at the finish line, what do you mean
17:34:17 14 by that? They were watching the races from the start?

17:34:20 15 A. From the starting gate to the finish line. They were there
17:34:22 16 at the finish line.

17:34:23 17 Q. Your Honor, may I have one moment?

17:34:29 18 THE COURT: Yes, sir.

17:34:34 19 MR. GARDNER: Your Honor, I will pass the witness.

17:34:37 20 THE COURT: Mr. Finn.

17:34:39 21 MR. FINN: Thank you, your Honor. May it please the
17:34:40 22 Court. Members of the jury.

17:34:41 23 CROSS-EXAMINATION

17:34:41 24 BY MR. FINN:

17:34:43 25 Q. Good afternoon, Mr. Guadalajara. How are you doing?

17:34:45 1 A. Good, sir.

17:34:47 2 Q. All right. So you've got a federal case in the Eastern
17:34:49 3 District of Texas; is that right?

17:34:51 4 A. Yes, sir.

17:34:51 5 Q. Is it pending or have you already been sentenced on that?

17:34:54 6 A. It's pending, sir.

17:34:55 7 Q. What are you looking at?

17:34:57 8 A. I have no idea, sir. They haven't told me anything.

17:35:00 9 Q. Have you -- did you plead guilty?

17:35:02 10 A. Yes, sir, I did.

17:35:03 11 Q. Do you have a lawyer?

17:35:04 12 A. Yes, sir.

17:35:05 13 Q. Did you know what's called a presentence interview where you
17:35:12 14 sit down and some man or lady asks you questions, like where were
17:35:18 15 you born, where were you raised, what did you do for a living,
17:35:21 16 have you used drugs, et cetera, et cetera? Have you done that?

17:35:24 17 A. Yes, sir.

17:35:25 18 Q. How long ago did you do that?

17:35:26 19 A. How long I did that, like a year ago.

17:35:29 20 Q. A year ago?

17:35:30 21 A. Yes, sir.

17:35:30 22 Q. And you're still waiting to be sentenced?

17:35:32 23 A. Yes, sir.

17:35:33 24 Q. Normally after a month or two after the interview that I'm
17:35:39 25 describing, there's a packet of information called a presentence

17:35:44 1 report, and it's normally 25, 30 pages long. Do you remember
17:35:48 2 seeing that?

17:35:48 3 A. Yes, sir.

17:35:49 4 Q. And about halfway through that packet of information, it
17:35:54 5 says what the sentencing guidelines are. And, you know, for an
17:35:59 6 example, it doesn't say years, it says months. Like 280 months
17:36:03 7 to 310 months and there's a range. Do you remember seeing that?

17:36:07 8 A. Yes, sir.

17:36:07 9 Q. Okay. So let me get back to the question. What is the
17:36:11 10 range of punishment that you're facing on that case?

17:36:14 11 A. For 120 months.

17:36:16 12 Q. 120 months?

17:36:17 13 A. Yes, sir.

17:36:17 14 Q. Okay. What about San Antonio? Is that a state or federal
17:36:22 15 case?

17:36:22 16 A. It's a federal case. San Antonio.

17:36:25 17 Q. Okay. Same question. Did you plead guilty?

17:36:27 18 A. Yes, sir.

17:36:27 19 Q. And you were caught red-handed weren't you? I mean, you got
17:36:30 20 caught holding dope, cocaine?

17:36:32 21 A. No, sir. I never.

17:36:33 22 Q. No?

17:36:33 23 A. No, sir.

17:36:34 24 Q. What about the Eastern District? Were you caught holding?

17:36:37 25 A. No, sir. Never.

17:36:37 1 Q. Did you get set up on each one?

17:36:39 2 A. No. Just in San Antonio. But I never got caught with
17:36:42 3 anything.

17:36:42 4 Q. Okay. Did you -- did they seize a whole bunch of evidence
17:36:47 5 from you, like your cellphone, and do surveillance and things
17:36:49 6 like that?

17:36:49 7 A. Yes. My cellphone.

17:36:50 8 Q. Cellphone. And did they confront you with what was on your
17:36:57 9 cellphone didn't look too good because you were talking to bad
17:37:00 10 guys?

17:37:00 11 A. No, sir. They didn't confront me.

17:37:02 12 Q. Okay. You pled guilty freely and voluntarily out of the
17:37:05 13 goodness of your heart?

17:37:06 14 A. Yes, sir.

17:37:06 15 Q. Just because you were guilty?

17:37:07 16 A. Yes, sir.

17:37:07 17 Q. Do you have any other criminal history besides the San
17:37:11 18 Antonio and the Eastern District federal case?

17:37:14 19 A. No, sir.

17:37:15 20 Q. Okay. How much time are you looking on the San Antonio
17:37:18 21 case?

17:37:19 22 A. In the San Antonio case? It's about 78 months.

17:37:22 23 Q. How many?

17:37:23 24 A. Seventy-eight months.

17:37:24 25 Q. Seventy-eight months? Okay. You understand that the judges

17:37:29 1 can decide if you get 120 months in the Eastern District and
17:37:34 2 then, you get 78 months in the San Antonio case, depending on a
17:37:38 3 lot of factors, those cases could either run concurrently, which
17:37:42 4 means together. You understand that, right?

17:37:44 5 A. Yes, sir.

17:37:45 6 Q. Or consecutive, which means stacked sentences, right? You
17:37:49 7 understand that?

17:37:49 8 A. Yes, sir.

17:37:50 9 Q. And obviously you're hoping that the government will like
17:37:54 10 what you have to say here today and request that whatever
17:37:57 11 sentence you get, that they run together, instead of stacked,
17:38:02 12 right?

17:38:02 13 A. Yes, sir.

17:38:02 14 Q. And you understand that the only way your San Antonio judge
17:38:09 15 or your Eastern District judge can give you a reduced sentence --
17:38:14 16 the only way is if the prosecutor -- the federal prosecutors on
17:38:19 17 your case file what's called -- this will be music to your ears
17:38:24 18 -- a 5K motion for downward departure, right?

17:38:28 19 You know and I know, and now the jury knows, that a man
17:38:32 20 in your position looking at a boatload of time, 5K motion for
17:38:36 21 downward departure is mui bueno, right? Come on.

17:38:43 22 A. Yes.

17:38:43 23 Q. Right?

17:38:44 24 MR. GARDNER: Your Honor, at this point, it's
17:38:46 25 argumentative.

17:38:48 1 MR. FINN: He didn't answer my question, Judge. That's
17:38:51 2 why I re-asked him.

17:38:53 3 THE COURT: Okay. Well, ask him again.

17:38:55 4 Q. (BY MR. FINN) You're hoping for a 5K in both cases, right?

17:39:01 5 A. Yes, sir.

17:39:02 6 Q. Okay. Thank you.

17:39:03 7 And the only way that any judge on this planet can give
17:39:07 8 you a 5K is if a prosecutor with the federal government, somebody
17:39:12 9 like Mr. Gardner, files the motion. Until then, the judge can't
17:39:17 10 reduce your sentence, even if the judge wanted to. Do you
17:39:20 11 understand that?

17:39:20 12 A. Yes, I understand, sir.

17:39:21 13 MR. GARDNER: Your Honor, asked and answered at this
17:39:22 14 point and argumentative. Relevance.

17:39:28 15 THE COURT: I'll have the lawyers.

17:39:39 16 (At the bench, on the record.)

17:39:51 17 THE COURT: I don't put myself in the testimony
17:39:57 18 business, but I don't have anybody in 21 years, unless it's a
17:40:02 19 mandatory minimum, I can't reduce. So I don't know what that 120
17:40:08 20 is. It sounds like it's the top of a ten-year count, and the 78
17:40:14 21 months is low. So the truth of the matter is, your question that
17:40:21 22 no judge can do it is wrong. The judge can give any sentence he
17:40:26 23 wants under 18 United States Code 3553(a). The Supreme Court's
17:40:32 24 made that clear in the last five years. So the question's wrong.
17:40:37 25 The recommendation to the Court is right.

17:40:43 1 MR. FINN: I can move on to something else, Judge.

17:40:45 2 THE COURT: Okay. I just think it would be better.

17:40:48 3 MR. WOMACK: Your Honor, is it an accurate statement to
17:40:50 4 say that under 5K1, a judge could not give a downward departure
17:40:54 5 unless the government request so?

17:40:54 6 THE COURT: I'm sorry, I couldn't hear.

17:40:57 7 MR. WOMACK: Is it a correct statement that under 5K1,
17:40:59 8 the Court cannot give a downward departure for 5K1 unless the
17:41:05 9 government requests it? That's correct, isn't it?

17:41:06 10 THE COURT: No. It's not. That's wrong.

17:41:08 11 MR. WOMACK: Under 5K1? I thought it had to be --

17:41:10 12 THE COURT: No. On a 5K1.

17:41:13 13 MR. WOMACK: Substantial assistance.

17:41:15 14 THE COURT: There's another statute that allows you to
17:41:19 15 go under even the mandatory minimum sentence.

17:41:21 16 MR. WOMACK: It's 3553.

17:41:22 17 THE COURT: But what you're thinking is a Rule 35 later
17:41:26 18 on.

17:41:26 19 MR. WOMACK: No, sir. That's reduction after
17:41:28 20 sentencing. I'm talking about the downward departure.

17:41:29 21 THE COURT: That's right. 5K1, a judge can ignore a
17:41:33 22 lower --

17:41:33 23 MR. WOMACK: Oh, yes, sir. But you can't do anything
17:41:37 24 with a 5K1 unless the government requests it. Even on your own
17:41:41 25 sua sponte, you can't do a 5K1.

17:41:44 1 THE COURT: The judge wouldn't sentence under the 5K1.
17:41:48 2 He'd sentence under 18 United States Code 3553.

17:41:51 3 MR. WOMACK: I gotcha.

17:41:52 4 MR. DEGEURIN: Judge, Mr. Colorado is sick. By that I
17:41:55 5 mean he's getting ready to go to the bathroom in his pants.

17:41:58 6 THE COURT: Okay. Members of the jury, it's late in
17:42:02 7 the day. I'm going to let you go home. Remember the
17:42:06 8 instructions, please, and have a nice evening. I got home just
17:42:16 9 in time to see that Texas finally won a baseball game.

17:42:45 10 (Jury not present.)

17:42:56 11 THE COURT: All right, sir. I'm going to put you with
17:42:59 12 the marshal. See you in the morning, sir. Go tell them 8:30.
17:43:13 13 We're in recess till 8:30.

17:43:13 14 (Proceedings adjourned.)
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